

## MISSOURI HEALTH INFORMATION SECURITY AND PRIVACY COLLABORATIVE

NOTE: Below is a chart comparing Missouri law to HIPAA for preemption purposes. The chart includes a brief description of each Missouri statute or regulation, references the applicable HIPAA provisions, indicates whether there is a conflict between Missouri law and HIPAA as well as which law governs, and provides commentary regarding the analysis. The final column indicates the implications for electronic health information exchange (HIE). Generally, the majority of the Missouri statutes and regulations listed below do not specifically address *electronic* HIE. To the extent the laws create barriers to HIE (such as requiring a court or administrative order for the release of records), they generally will cause such barriers regardless of whether the HIE is electronic or otherwise. In a few instances, however, electronic records are addressed in the last column.

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>COUNTY, TOWNSHIP AND POLITICAL SUBDIVISION GOVERNMENT</b>					
<b>Circuit and Prosecuting Attorneys and County Counselors</b>					
<b>Investigative Subpoenas §56.085</b> <ul style="list-style-type: none"> <li>In the course of a criminal investigation, the prosecuting or circuit attorney may request a judge to issue an investigative subpoena for oral examination or production of documents.</li> </ul>	<b>Law Enforcement Purposes §164.512(f)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI in compliance with a court order, court-ordered warrant, subpoena or summons issued by a judicial officer, grand jury subpoena or, if certain requirements are met, an administrative request.</li> </ul>	Yes	State	<ul style="list-style-type: none"> <li>Investigative subpoenas have the same effect under Missouri law as any other similar subpoena.</li> <li>Absent specific statutory authority under state law to disclose privileged information in response to a subpoena, CEs may not disclose such information, even if requested by a subpoena, without a patient waiver or a court/administrative order. <i>Ingram v.</i></li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>

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\*This document does not address electronic signatures or contracts under federal law. Under Missouri law, electronic records, contracts and signatures are legal and enforceable in accordance with the law per RSMo. §432.230.

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				<i>Mutual of Omaha</i> , 170 F.Supp.2d 907 (W.D.Mo. 2001). <ul style="list-style-type: none"> <li>Some CEs may consider a subpoena signed by a judge to be a court order and others may not and some may consider a subpoena signed by an attorney to be a court order while others may not.</li> </ul>	
<b>Coroners and Inquests</b>					
<b>Reporting of Deaths and Inquiry about Cause of Death</b> <b>§§58.451, 58.452, 58.720 and 58.722</b> <ul style="list-style-type: none"> <li>Specified individuals are required to report certain deaths, including deaths of children under age eighteen to the coroner.</li> <li>The coroner or medical examiner is required to make inquiry into the cause and manner of death (by implication includes examination of</li> </ul>	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <b>Coroners and Medical Examiners §164.512(g)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to the coroner or medical</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report deaths and provide relevant information as part of an inquiry by the coroner or medical examiner without violating HIPAA because disclosure of PHI assists coroners or medical examiners in fulfilling their statutory duties of identifying the cause of death and is required by law.</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>

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medical records).	<p>examiner for purposes of identifying the deceased and the cause of death.</p> <ul style="list-style-type: none"> <li>CEs may use PHI for the same purposes if they are acting as the coroner or medical examiner in a given situation.</li> </ul>				
<b>EDUCATION AND LIBRARIES</b>					
<b>Pupils and Special Services</b>					
<b>Immunizations</b> <b>§§167.181 and 167.183</b> <ul style="list-style-type: none"> <li>A record of immunization must be prepared by school superintendent for each student showing immunization status and such records may be disclosed and exchanged to the following to assure compliance with state statutes: employees of public agencies, departments and political subdivisions; health records staff of school districts; child care facilities; health care professionals; and those entrusted with regular</li> </ul>	<b>Public Health Activities</b> <b>§164.512(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul> <b>As Required by Law</b> <b>§164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose immunization records to employees of public agencies, departments and political subdivisions; health records staff of school districts; child care facilities; health care professionals; and those entrusted with regular care of those under care and custody of state agency without violating HIPAA because it is a permissible public health activity.</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>

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care of those under care and custody of state agency.	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to public health oversight agencies for oversight activities authorized by law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to the above listed individuals and entities to comply with state statutes.</li> </ul>	
<b>PUBLIC HEALTH AND WELFARE</b>					
<b>Regulation of Abortions</b>					
<b>Reporting of Abortions §§188.052 and 188.055</b> <ul style="list-style-type: none"> <li><b>§188.052</b> Abortion reports and abortion complication reports, which contain health information, must be submitted to DHSS.</li> </ul>	<b>Preemption Exception §160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report abortions and their complications pursuant to state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by law and is a permissible public health activity.</li> </ul>	

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<p><b>§188.055</b></p> <ul style="list-style-type: none"> <li>Information obtained by a physician, hospital or abortion facility from a patient for the purpose of preparing reports to DHSS and the information included in the reports received by DHSS is confidential.</li> <li>Such information may generally be used only for statistical purposes.</li> </ul>	<p>PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</p> <p><b>TPO</b> <b>§164.506</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <p><b>Notice of Privacy Practices</b> <b>§164.520(c)</b></p> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Because the disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</li> <li>Thus, CEs that are direct treatment providers may use abortion information for statistical purposes (health care operations) only if they comply with the more stringent</li> </ul>	

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<ul style="list-style-type: none"> <li>Such information may be disclosed as part of an inspection for public health purposes.</li> </ul>	<b>Public Health Activities §164.512(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>	No	State	<p>requirements for the HIPAA NPP acknowledgment.</p> <ul style="list-style-type: none"> <li>CEs may disclose abortion information to public health authorities for public health purposes pursuant to state law without violating HIPAA because it is a permissible public health activity.</li> </ul>	
<b>Emergency Services</b>					
<b>Licensure: Emergency Services §190.175.4</b> <ul style="list-style-type: none"> <li>An ambulance service licensee or emergency medical response agency licensee must make records available for inspection by DHSS.</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to public health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul> <b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to DHSS under a state licensing inspection without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	

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	PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.				
<b>Data Collection Law §190.176</b> <ul style="list-style-type: none"> <li>DHSS shall develop and administer a uniform data collection system on all ambulance runs and injured patients.</li> <li>Hospitals are not required to disclose certain data.</li> </ul>	<b>Preemption Exception §160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report data to DHSS pursuant to the data collection law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by law and is a permissible public health activity.</li> </ul>	

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	<p>limited to the requirements of such law.</p> <p><b>Public Health Activities</b>  <b>§164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>				
<p><b>Licensure: Peer Review Systems of Trauma Centers</b>  <b>§190.245</b></p> <ul style="list-style-type: none"> <li>Hospitals designated as trauma centers are required to implement a peer review system for trauma patients and DHSS has licensing authority necessary to ensure compliance.</li> <li>DHSS may only use the records to implement such statutes and may not re-disclose the PHI.</li> </ul>	<p><b>Health Oversight Activities</b>  <b>§164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to public health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul> <p><b>As Required by Law</b>  <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs such as trauma centers may disclose PHI to DHSS as part of the licensing authority of DHSS without violating HIPAA because it is a permissible health oversight activity.</li> <li>DHSS is a CE to the extent it is a health care provider but it is a hybrid entity because it also has non-covered functions.</li> <li>Because the state</li> </ul>	



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	<p>it is required by law and is limited to the requirements of such law.</p> <p><b>Covered Entity</b> <b>§160.103</b></p> <ul style="list-style-type: none"> <li>• A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul> <p><b>Hybrid Entity</b> <b>§164.504(a)</b></p> <ul style="list-style-type: none"> <li>• A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <p><b>Health Care Component</b> <b>§164.504(b)</b></p> <ul style="list-style-type: none"> <li>• HIPAA only applies to the health care component of a hybrid entity.</li> </ul>			<p>law limitations on further disclosure by DHSS relate to its function as a public health authority and not as a covered health care provider, HIPAA does not regulate such disclosure.</p> <ul style="list-style-type: none"> <li>• Thus, further disclosure by DHSS is governed by state law.</li> </ul>	



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	<ul style="list-style-type: none"> <li>CEs may deny access in certain situations. The following disclosures are “reviewable” under HIPAA by a licensed health care professional (designated by the CE) who did not participate in the original decision to deny access.</li> </ul> <ol style="list-style-type: none"> <li>Disclosures that are reasonably likely to endanger the individual or another</li> <li>Disclosures that are reasonably likely to cause substantial harm to a person referenced in the PHI <i>or</i></li> <li>Disclosures upon the request of a personal representative where disclosure is likely to cause substantial harm</li> </ol>	Yes	HIPAA	<p>therefore more stringent.</p> <ul style="list-style-type: none"> <li>CEs may not limit a patient’s access to his or her medical records for therapeutic reasons as permitted under Missouri law because HIPAA provides greater access by the patient and is thus more stringent in that HIPAA requires some danger to the individual or others as opposed to general considerations of sound therapeutic treatment.</li> </ul>	

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<p><u>Time for Access</u></p> <ul style="list-style-type: none"> <li>Copies must be furnished within a reasonable time from the receipt of the request and payment.</li> </ul>	<p>to the individual or another.</p> <p><u>Time for access</u></p> <ul style="list-style-type: none"> <li>Requires CE's to act upon an individual's request for access within 30 to 90 days, depending on the situation.</li> </ul>	Yes	HIPAA	<p><u>Time for access</u></p> <ul style="list-style-type: none"> <li>To the extent a "reasonable time" under Missouri law exceeds the specific time frames in HIPAA, it is preempted by the more stringent HIPAA standard.</li> </ul>	<ul style="list-style-type: none"> <li>Time frame for providing copies of records will presumably be easier to meet with electronic records.</li> </ul>
<p><u>Fees</u></p> <ul style="list-style-type: none"> <li>Allows a health care provider to charge a "handling fee" of \$17.05 and a per-page copying fee of \$.40 plus a reasonable fee for duplications not able to be copied on a standard copy machine. The standard fee is increased February 1 of each year in accordance with the CPI and is published by DHSS on its Web site.</li> </ul>	<p><u>Fees</u></p> <ul style="list-style-type: none"> <li>If the individual requests a copy of his or her own records, HIPAA allows CE's to charge a "reasonable cost-based fee," including the cost of copying (paper, labor, etc) and postage. Such a fee may be charged for the preparation of a summary of the PHI if the individual requests it.</li> <li>Handling or retrieval fees are prohibited with respect to requests by the</li> </ul>	Yes and No	State and HIPAA (depends on the situation)	<p><u>Fees</u></p> <ul style="list-style-type: none"> <li><i>Copying Fees:</i> With respect to fees charged for making copies at an individual's request, HIPAA requires reasonable, cost-based fees. Though Missouri has determined by statute that a reasonable fee with respect to ordinary copies is \$.37 per page, it might not be</li> </ul>	<ul style="list-style-type: none"> <li>Cost of providing patient <i>electronic</i> copy of record is not provided for by state law so until statutorily defined, the fee must be a reasonable, cost-based fee per HIPAA.</li> </ul>

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	individual.			<p>considered a “cost-based” fee under HIPAA because it is based on a statutory amount and not the actual cost of the copies. The Missouri statutory fees appear to be a maximum fee permitted under state law. However, to the extent the actual cost of the copies is less than the state statutory amount, HIPAA may preempt Missouri’s statutory fee and require CEs to charge less than what is permitted under Missouri law.</p> <ul style="list-style-type: none"> <li>• <i>Handling Fee:</i> CEs may not charge a handling or retrieval fee in connection with an individual’s request for copies of</li> </ul>	<ul style="list-style-type: none"> <li>• Prohibition on charging a handling fee would presumably apply also to electronic records.</li> </ul>

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				his or her own records as permitted under Missouri law because it would reduce the individual's access to their PHI and is thus less stringent than HIPAA, which does not permit such a fee to be charged. Requests by the individual will likely be construed to include the individual's "personal representative" as defined under HIPAA or their "legally authorized representative" as defined under state law. (See preamble for further discussion of this issue). To the extent the request is not from the individual or such a	

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				representative, CEs may charge the handling fee under state law.	
<b>Reporting of Infant PKU Testing</b> <b>§191.331</b> <ul style="list-style-type: none"> <li>Mandatory testing and reporting of infants diagnosed with phenylketonuria (PKU) and such other metabolic and genetic diseases as prescribed by DHSS.</li> </ul>	<b>Preemption Exception</b> <b>§160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <b>As Required by Law</b> <b>§164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI as part of the required reporting under state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by state law and is a permissible public health activity.</li> </ul>	

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	<b>Public Health Activities §164.512(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> <li></li> </ul>				
<b>Reporting of Exposure to Infectious Disease § 191.631</b> <ul style="list-style-type: none"> <li>When a care provider (defined as a person who is employed as an emergency medical care provider, firefighter, or police officer) “sustains an exposure” while rendering emergency treatment to a patient, the patient is deemed to have consented to being tested for contagious or infectious diseases and to the notification of the care provider regarding the results of such tests.</li> <li>Patients must only be</li> </ul>	<b>Individually Identifiable Health Information §160.103</b> <ul style="list-style-type: none"> <li>Individually identifiable health information includes health information relating to past present or future physical or mental health or condition of an individual.</li> </ul> <b>De-identification of PHI §164.514</b> <ul style="list-style-type: none"> <li>Lists all elements of PHI that must be eliminated in order to de-identify the PHI.</li> </ul> <b>Preemption Exception</b>	No	State	<ul style="list-style-type: none"> <li>The information permitted to be disclosed in the Missouri statute is PHI because it includes a patient number and thus is not de-identified.</li> <li>CEs may report the existence of an infectious disease to care providers as required under Missouri law without violating HIPAA because such reports are exempted from preemption and their disclosure is a</li> </ul>	



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identified by a number unless they consent to inclusion of their name.	<p><b>§160.203(c)</b></p> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <p><b>Public Health Activities</b> <b>§164.512(b)(1)(iv)</b></p> <ul style="list-style-type: none"> <li>CEs may report PHI to a person who may have been exposed to a communicable disease or may be at risk of contracting or spreading the disease if the CE is authorized by law to notify such person.</li> </ul>			permissible public health activity.	
<p><b>Blood-borne pathogens</b> <b>§191.640</b></p> <ul style="list-style-type: none"> <li>Identifies items required to be contained in a</li> </ul>	<p><b>TPO</b> <b>§164.506</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment,</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Because the disclosure of PHI by CEs that are direct treatment providers</li> </ul>	

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<p>sharps injury log.</p> <p>• Allows any person to report to DHSS a violation of this section.</p>	<p>payment and health care operations.</p> <p><b>Notice of Privacy Practices §164.520(c)(2)</b></p> <ul style="list-style-type: none"> <li>• Direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul> <p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>• CEs may disclose PHI to public health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<p>for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</p> <ul style="list-style-type: none"> <li>• Thus, CEs that are direct treatment providers may disclose PHI for the maintenance of a sharps injury log only if they comply with the requirements for the HIPAA NPP acknowledgment.</li> <li>• CEs may disclose PHI to DHSS as part of a report of a violation of law without violating HIPAA because such disclosure is a permissible health oversight activity.</li> </ul>	

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<b>Reporting of HIV to DHSS §191.653 19 CSR 20-20.090</b> <ul style="list-style-type: none"> <li>• <b>§191.653</b> All persons authorized to perform HIV tests must report to DHSS the identity of any individual confirmed to be infected with HIV.</li> <li>• <b>19 CSR 20-20.090</b> Requires a provider to notify an employer of any first responder who may have been exposed to HIV or any other reportable communicable disease.</li> </ul>	<b>Preemption Exception §160.203(c)</b> <ul style="list-style-type: none"> <li>• Generally, HIPAA preempts contrary state laws.</li> <li>• One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>• CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <b>Public Health Activities §164.512(b)(1)(i)</b> <ul style="list-style-type: none"> <li>• CEs may disclose PHI to a public health authority</li> </ul>	No	State	<ul style="list-style-type: none"> <li>• CEs may report HIV cases to DHSS and notify the employer of the exposure of a first responder as required under state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required under state law and is a permissible public health activity.</li> </ul>	



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2. Peace officers, attorney general and his or her assistants and prosecutors.	<p>authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</p> <p><b>Public Health Activities §164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>	Yes	HIPAA	<p>pursuant to Missouri law without violating HIPAA because it is a permissible public health activity.</p> <ul style="list-style-type: none"> <li>It is likely that Missouri law would be preempted because it would permit disclosure of PHI that is otherwise prohibited under HIPAA without an authorization. However, one could argue against preemption by interpreting HIPAA in a way that a law enforcement official may be considered a public health authority in this situation for this limited purpose.</li> </ul>	
3. Non-public employees who	<p><b>Public Health Activities §164.512(b)(1)(iv)</b></p>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose to non-public</li> </ul>	

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<p>regularly care for a person in the custody of state (e.g. foster parents).</p> <p><u>Immunity from Liability for Breach of Confidentiality</u></p> <ul style="list-style-type: none"> <li>Unless they act in bad faith or with conscious disregard, individuals are not liable for violating any right to confidentiality if they disclose information about a person's HIV/AIDS status to:</li> </ul> <p>1. DHSS</p>	<ul style="list-style-type: none"> <li>CEs may disclose PHI to a person who may be at risk of contracting a disease or condition if the CE or a public health authority is authorized by law to notify such person.</li> </ul> <p><b>Public Health Activities §164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such</li> </ul>	No	State	<p>employees PHI pertaining to an individual's HIV/AIDS status pursuant to Missouri law without violating HIPAA because it is a permissible public health activity.</p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to DHSS as permitted under Missouri law without violating</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
2. Health care personnel providing direct patient care who have a reasonable need to know.	<p>information for the purpose of preventing or controlling disease, injury or disability.</p> <p><b>Public Health Activities §164.512(b)(1)(iv)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a person who may be at risk of contracting a disease or condition if the CE or a public health authority is authorized by law to notify such person.</li> </ul>	No	State	<p>HIPAA because such disclosure is permissible as a public health activity.</p> <ul style="list-style-type: none"> <li>CEs may disclose the HIV/AIDS status of a patient pursuant to Missouri law without violating HIPAA because it is a permissible public health activity.</li> </ul>	
3. Pursuant to the written authorization of the subject of the test.	<p><b>Authorizations §164.508</b></p> <ul style="list-style-type: none"> <li>Except as otherwise permitted under HIPAA, a CE may not use or disclose PHI without an authorization.</li> <li>The content of such authorization must comply with HIPAA standards.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Because HIPAA is more stringent than state law with respect to the contents of an authorization, it preempts state law. Thus, CEs may only disclose HIV/AIDS information pursuant to an authorization under state law if the authorization is HIPAA compliant or</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
4. Spouse of subject of the test.	<b>Public Health Activities</b> <b>§164.512(b)(1)(iv)</b> <ul style="list-style-type: none"> <li>CEs may report PHI to a person who may have been exposed to a communicable disease or may be at risk of contracting or spreading the disease if the CE is authorized by law to notify such person.</li> </ul>	No	State	<p>a HIPAA exception applies.</p> <ul style="list-style-type: none"> <li>CEs may disclose an individual's HIV/AIDS status to the individual's spouse pursuant to Missouri law without violating HIPAA because it is a permissible public health activity.</li> </ul>	
5. The subject of the test.	<b>Right of Access</b> <b>§164.524</b> <ul style="list-style-type: none"> <li>An individual has a right of access to inspect and obtain a copy of his or her own PHI.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose to the subject of an HIV/AIDS test the results of that test under both Missouri law and HIPAA. But keep in mind the preemption issues in terms of the right of access to medical records under Missouri law (as discussed with respect to §191.227, RSMo).</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
6. Parent or legal guardian of a minor who is the subject of the test.	<b>Personal Representatives: Unemancipated Minors §164.502(g)(3)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to an individual's parent, guardian or person acting <i>in loco parentis</i> who has authority to act on behalf of an unemancipated minor in making decisions related to health care.</li> </ul> <b>Personal Representatives: Adults and Emancipated Minors §164.5502(g)(2)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a person who has authority to act on behalf of an adult or emancipated minor in making decisions related to health care.</li> </ul>	Yes and No	State and HIPAA (depends on the situation)	<ul style="list-style-type: none"> <li>CEs may disclose to the parent or legal guardian of an <i>unemancipated</i> minor information about the HIV/AIDS status of such minor without violating HIPAA because such disclosure is allowed under HIPAA where, as here, it is permitted under state law.</li> <li>CEs may disclose to a parent of an <i>emancipated</i> minor information about the HIV/AIDS status of such minor without violating HIPAA only if the parent has authority to act on behalf of the minor in making decisions related to health care.</li> </ul>	
7. The victims of certain sex crimes.	<b>Public Health Activities §164.512(b)(1)(iv)</b>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose information about</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>8. Employees of certain state licensing boards in relation to certain disciplinary actions.</p> <p><u>Civil Immunity for Health Care Providers</u></p> <ul style="list-style-type: none"> <li>Health care providers will not have civil liability for</li> </ul>	<ul style="list-style-type: none"> <li>CEs may report PHI to a person who may have been exposed to a communicable disease or may be at risk of contracting or spreading the disease if the CE is authorized by law to notify such person.</li> </ul> <p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<p>the HIV/AIDS status of an individual to the victim of certain sex crimes pursuant to Missouri law without violating HIPAA because such victims may have been exposed to a communicable disease.</p> <ul style="list-style-type: none"> <li>CEs may disclose information about an individual's HIV/AIDS status to various licensing boards pursuant to state law without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Conflict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
1. Making a good faith report to DHSS about a person reasonably believed to be infected with HIV.	<b>Public Health Activities §164.512(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose information about an individual's HIV/AIDS status to DHSS pursuant to state law without violating HIPAA because it is a permissible public health activity.</li> </ul>	
2. Cooperating in good faith with DHSS in an investigation to determine whether a court order will be sought to direct a person to undergo HIV testing.	<b>Public Health Activities §164.512(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose information about an individual's HIV/AIDS status to DHSS pursuant to state law without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	
3. Participating in good faith in any judicial proceeding resulting in such a report or investigation.	<b>Judicial and Administrative Proceedings §164.512(e)(1)(i)</b> <ul style="list-style-type: none"> <li>CE may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>CEs may not disclose the HIV/AIDS status of an individual in a judicial proceeding pursuant to this Missouri statute unless HIPAA</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>administrative tribunal or, if certain requirements are met, in response to a subpoena, discovery request or other lawful process.</p> <p><u>Confidentiality of Communications</u></p> <ul style="list-style-type: none"> <li>All communications between the subject of the HIV testing and person performing the test shall be privileged.</li> </ul> <p><u>Research Projects</u></p> <ul style="list-style-type: none"> <li>The identity of an</li> </ul>	<p>administrative tribunal or, if certain requirements are met, in response to a subpoena, discovery request or other lawful process.</p> <p><b>Individually Identifiable Health Information §160.103</b></p> <ul style="list-style-type: none"> <li>Individually identifiable health information includes health information relating to past present or future physical or mental health or condition of an individual.</li> </ul> <p><b>Uses and Disclosures: General Rules §164.502</b></p>	<p>No</p> <p>No</p>	<p>State</p> <p>State</p>	<p>would also permit such disclosure. To the extent HIPAA only permits disclosure in response to a court or administrative order or, if certain requirements are met, other types of requests in a judicial proceeding, HIPAA is more stringent and must be followed.</p> <ul style="list-style-type: none"> <li>Communications between the subject of the test and the person performing the test are protected under both state law and HIPAA.</li> <li>CEs must comply with state law and HIPAA by not</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
individual participating in a research project approved by an IRB shall not be reported to DHSS by the physician conducting the research.	<ul style="list-style-type: none"> <li>CEs may not use or disclose PHI except as permitted under HIPAA.</li> </ul>			reporting PHI in these types of research projects because neither law permits or requires such disclosure.	
<b>HIV Information: Court Order for Release §191.657</b> <ul style="list-style-type: none"> <li>Lists circumstances under which a court order may be obtained for the disclosure of confidential HIV-related information.</li> </ul>	<b>Judicial and Administrative Proceedings §164.512(e)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery request or other lawful process.</li> </ul> <b>Law Enforcement Purposes §164.512(f)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI in compliance with a court order, court-ordered warrant, subpoena or summons issued by a judicial officer, grand jury</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose confidential HIV-related information pursuant to a court order obtained under Missouri law without violating HIPAA because disclosure pursuant to a court order is permitted under HIPAA.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	subpoena or, if certain requirements are met, an administrative request.				
<b>HIV Information: Disclosure to Exposed Workers</b> <b>§191.658</b> <ul style="list-style-type: none"> <li>Allows disclosure by DHSS to a health care provider who is treating a health care worker or law enforcement officer following a “medically significant exposure” of the source individual’s HIV status if it is on file with DHSS.</li> <li>The health care provider can then disclose to the health care worker or law enforcement officer under certain circumstances.</li> <li>Further disclosure by any of the above individuals is prohibited.</li> </ul>	<b>Covered Entity §160.103</b> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul> <b>Hybrid Entity §164.504(a)</b> <ul style="list-style-type: none"> <li>A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <b>Health Care Component §164.504(b)</b> <ul style="list-style-type: none"> <li>HIPAA only applies to the health care component of a hybrid entity.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>DHSS is a CE to the extent it is a health care provider but it is a hybrid entity because it also has non-covered functions.</li> <li>DHSS may disclose PHI to health care workers and law enforcement officers under this provision of state law without violating HIPAA because such disclosure is not governed by HIPAA in that the disclosure is part of a non-covered public health function of DHSS.</li> <li>Health care providers may disclose PHI to the health care worker</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<b>Public Health Activities</b> <b>§164.512(b)(1)(iv)</b> <ul style="list-style-type: none"> <li>CEs may report PHI to a person who may have been exposed to a communicable disease or may be at risk of contracting or spreading the disease if the CE is authorized by law to notify such person.</li> </ul> <b>Uses and Disclosures:</b> <b>General Rules</b> <b>§164.502</b> <ul style="list-style-type: none"> <li>CEs may not use or disclose PHI except as permitted under HIPAA.</li> </ul>			or law enforcement officer under this provision of state law without violating HIPAA because it is a permissible public health activity. <ul style="list-style-type: none"> <li>To the extent Missouri law prohibits further disclosure by the individuals listed in the statute, HIPAA also prohibits such disclosure unless the individual disclosing is not a CE.</li> </ul>	
<b>HIV: Required Testing and Disclosure of Results</b> <b>§191.663</b> <ul style="list-style-type: none"> <li>Lists certain circumstances when HIV testing is required without an individual's consent.</li> <li>Lists certain circumstances when results may or must be</li> </ul>	<b>Preemption Exception</b> <b>§160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public</li> </ul>	No	State	<ul style="list-style-type: none"> <li>If a CE performs the required tests under §191.663, RSMo, the CE may report pursuant to that statute without violating HIPAA because such reports are exempted from preemption and their disclosure is a</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
reported to the victims of certain sex crimes and the administrator of a jail.	<p>health surveillance, investigation or intervention.</p> <p><b>As Required by Law</b> <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <p><b>Public Health Activities</b> <b>§164.512(b)(1)(iv)</b></p> <ul style="list-style-type: none"> <li>CEs may report PHI to a person who may have been exposed to a communicable disease or may be at risk of contracting or spreading the disease if the CE is authorized by law to notify such person.</li> </ul>			permissible public health activity.	
<b>HIV Testing by Dept. of Insurance</b> <b>§191.671</b>	<p><b>Public Health Activities</b> <b>§164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to DHSS for public health</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>Results of HIV test for applicant for insurance coverage shall be disclosed to a physician designated by the subject of test; If no physician is designated, the identity of those individuals residing in MO having a confirmed positive HIV test will be disclosed to DHSS.</li> </ul>	<p>public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</p> <p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>			activities as preventing or controlling disease.	
<p><b>HIV Testing by Court Order §191.674</b></p> <ul style="list-style-type: none"> <li>After DHSS has made a reasonable attempt to obtain informed consent, DHSS may request a court order that an individual undergo HIV testing when there are reasonable grounds to believe the individual is</li> </ul>	<p><b>Serious Threat to Health or Safety §164.512(j)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may, consistent with applicable law and ethical standards, disclose PHI if they have a good faith belief that such disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to the court in order to obtain an order for HIV testing under state law without violating HIPAA because such disclosure is permitted in order to avert a serious and imminent threat to health or safety.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>infected with HIV and there is clear and convincing evidence of a serious and present health threat to others.</p> <ul style="list-style-type: none"> <li>Records of any suit filed pursuant to this section are closed to the public.</li> </ul>	<p>person or the public AND the disclosure is to a person reasonably able to prevent or lessen such threat.</p> <p><b>Judicial and Administrative Proceedings</b>  <b>§164.512(e)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CE may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain requirements are met, in response to a subpoena, discovery request or other lawful process.</li> </ul>			<ul style="list-style-type: none"> <li>If a CE performs the test, it may disclose to the relevant parties as ordered by the court.</li> </ul>	
<p><b>Prohibited Acts if Knowingly Infected with HIV</b>  <b>§191.677</b></p> <ul style="list-style-type: none"> <li>DHSS may file a complaint with the prosecuting attorney and shall assist the prosecution in preparing a case against one infected</li> </ul>	<p><b>Judicial and Administrative Proceedings</b>  <b>§164.512(e)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CE may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or,</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>CEs may not disclose the HIV/AIDS status of an individual in a judicial proceeding unless HIPAA would also permit disclosure. To the extent HIPAA only</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
with HIV who knowingly performs prohibited acts listed in this statute. This includes turning over records concerning the person's HIV infected status.	<p>if certain requirements are met, in response to a subpoena, discovery request or other lawful process.</p> <p><b>Law Enforcement Purposes §164.512(f)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI in compliance with a court order, court-ordered warrant, subpoena or summons issued by a judicial officer, grand jury subpoena or, if certain requirements are met, an administrative request.</li> </ul>			permits disclosure in response to a court or administrative order or, if certain requirements are met, other types of requests in a judicial proceeding, HIPAA is more stringent and must be followed.	
<p><b>Notice to Schools of HIV Status §191.689</b></p> <ul style="list-style-type: none"> <li>Once school superintendents have notice of a student infected with HIV, they may disclose the identity of an infected child to those at school who determine fitness of individuals to attend</li> </ul>	<p><b>Serious Threat to Health or Safety §164.512(j)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may, consistent with applicable law and ethical standards, disclose PHI if they have a good faith belief that such disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose the HIV/AIDS status of a student to those at the school who have a reasonable need to know in order to provide proper healthcare. People that need to provide proper healthcare are reasonably able to prevent or lessen the</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>with practice restrictions or limitations.</p> <ul style="list-style-type: none"> <li>Any violation of practice restrictions or limitations may be reported to the appropriate state licensing board.</li> </ul>	<p>payment and health care operations.</p> <p><b>Notice of Privacy Practices §164.520(c)(2)</b></p> <ul style="list-style-type: none"> <li>Direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul> <p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<p>requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</p> <ul style="list-style-type: none"> <li>Thus, CEs may disclose PHI for peer review purposes (health care operations) only if they comply with the more stringent requirements for the HIPAA NPP acknowledgment.</li> <li>CEs may report violations of practice restrictions to a state licensing board without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	
<b>HIV/HBV: Notification of Funeral Directors, Coroners and Medical</b>	<p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose</li> </ul>	No	State	<p><u>Coroners and Medical Examiners</u></p> <ul style="list-style-type: none"> <li>CEs may disclose</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>Examiners</b> <b>§191.703</b> <b>19 CSR 20-20.090(3) &amp; (4)</b> <ul style="list-style-type: none"> <li>A licensed health care facility that treats a patient having HIV or HBV infection or any other reportable infectious or contagious disease shall notify the funeral home, coroner or medical examiner of such disease prior to removal of the deceased from the health care facility.</li> </ul>	<p>PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</p> <p><b>Coroners and Medical Examiners</b>  <b>§164.512(g)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to the coroner or medical examiner for purposes of identifying the deceased and the cause of death.</li> <li>Allows disclosure of PHI to funeral directors consistent with applicable law as necessary to carry out their duties.</li> </ul> <p><b>Public Health Activities</b>  <b>§164.512(b)(1)(iv)</b></p> <ul style="list-style-type: none"> <li>CEs may report PHI to a person who may have been exposed to a communicable disease or may be at risk of contracting or spreading</li> </ul>			<p>the HIV or HBV status of a deceased to the coroner or medical examiner as required under state law without violating HIPAA because it is required by law; it could be for the purposes of identifying the cause of death; and such PHI is being disclosed to one who may be at risk of contracting a communicable disease.</p> <p><u>Funeral Directors</u></p> <ul style="list-style-type: none"> <li>CEs may disclose the HIV or HBV status of a decedent to the funeral director as required by state law without violating HIPAA because it is required by law; is necessary for the funeral</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	the disease if the CE is authorized by law to notify such person.			director to carry out his or her duties; and such PHI is being disclosed to one who may be at risk of contracting a communicable disease.	
<b>Reporting of Children Exposed to Substance Abuse</b> <b>§191.737</b> <ul style="list-style-type: none"> <li>Providers may refer families to DHSS when children may have been exposed to controlled substances.</li> </ul>	<b>Preemption Exception §160.203</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <b>Public Health Activities §164.512(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI as part of referring or reporting a family to DHSS under state law without violating HIPAA because such reports are exempted from preemption and their disclosure is a permissible public health activity.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	purpose of preventing or controlling disease, injury or disability.				
<b>Reporting of High-Risk Pregnancies</b> <b>§191.743</b> <ul style="list-style-type: none"> <li>Physicians and health care providers shall report high-risk pregnancies to DHSS if they obtain the patient's consent.</li> </ul>	<b>Preemption Exception</b> <b>§160.203</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <b>As Required by Law</b> <b>§164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	Yes	State	<ul style="list-style-type: none"> <li>CEs may report high-risk pregnancies to DHSS under state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by law and is a permissible public health activity.</li> <li>However, because state law requires consent of the patient before such reporting, it is more stringent than HIPAA. Thus, consent under state law must be obtained but it need not meet the requirements for a</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<b>Public Health Activities §164.512(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>			HIPAA authorization.	
<b>Testing of Women and Infants at Time of Delivery §191.745</b> <ul style="list-style-type: none"> <li>Upon request of DHSS, a physician providing obstetrical or gynecological care shall obtain “test samples” to send to DHSS for analysis and study.</li> <li>Samples are to be provided without identifying information unless DHSS requests certain demographic information necessary to interpret the results.</li> </ul>	<b>De-identification of PHI §164.514</b> <ul style="list-style-type: none"> <li>Lists all elements of PHI that must be eliminated in order to de-identify the PHI.</li> </ul> <b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <b>Public Health Activities §164.512(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a</li> </ul>	No	State	<ul style="list-style-type: none"> <li>To the extent identifying or demographic information is provided to DHSS, the samples and information would constitute PHI and would not be considered de-identified.</li> <li>CEs may disclose such PHI to DHSS as required by Missouri law without violating HIPAA because it is required by state law and is a permissible public health activity.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.				
<b>Fraud and Abuse Investigations by Attorney General §191.910</b> <ul style="list-style-type: none"> <li>The Attorney General has the authority to investigate health care payment fraud and abuse.</li> </ul>	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to the Attorney General as part of a fraud and abuse investigation under state law without violating HIPAA because such disclosure is required by law and is pursuant to a permissible health oversight activity.</li> </ul>	
<b>Reporting of Newborn Hearing Tests</b>	<b>Preemption Exception §160.203(c)</b>	No	State	<ul style="list-style-type: none"> <li>CEs may report to DHSS the results of</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>§191.925</b> <ul style="list-style-type: none"> <li>Every newborn shall be screened for hearing loss and the results reported to parents or legal guardian and DHSS.</li> <li>Parents or guardian may refuse testing on religious grounds but such refusal must be documented and reported to DHSS.</li> </ul>	<ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <p><b>As Required by Law</b> <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <p><b>Public Health Activities</b> <b>§164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the</li> </ul>			<p>newborn hearing tests or the refusal of such tests pursuant to state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by state law and is a permissible public health activity.</p>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	purpose of preventing or controlling disease, injury or disability.				
<b>Department of Health and Senior Services</b>					
<b>Disease Prevention: Authority of DHSS §192.020 19 CSR 20-20.020</b> <ul style="list-style-type: none"> <li>DHSS is granted authority to promulgate regulations for the purpose of preventing the spread of contagious or communicable diseases.</li> <li>This is implemented by 19 CSR 20-20.020, which requires the reporting of diseases listed therein.</li> </ul>	<b>Preemption Exception §160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report communicable diseases as required under state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by state law and is a permissible public health activity.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<b>Public Health Activities</b> <b>§164.512(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>				
<b>Vital Statistics</b> <b>§192.060</b> <b>(See Chapter 193 for specific information about what should be reported)</b> <ul style="list-style-type: none"> <li>Gives DHSS authority to receive information about vital statistics.</li> </ul>	<b>Preemption Exception</b> <b>§160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <b>As Required by Law</b> <b>§164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report vital statistics to DHSS under state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required under state law and is a permissible public health activity.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</p> <p><b>Public Health Activities §164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>				
<p><b>Epidemiological Studies by DHSS and Requirement of Confidentiality §192.067</b></p> <ul style="list-style-type: none"> <li>Grants authority to DHSS to receive medical record information for epidemiological studies.</li> <li>Requires DHSS to maintain confidentiality of information it receives.</li> <li>DHSS may release</li> </ul>	<p><b>Preemption Exception §160.203(c)</b></p> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report medical record information to DHSS for epidemiological studies under state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by law and</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>information in a statistical aggregate form that precludes identification of the patient, physician or medical facility.</p> <ul style="list-style-type: none"> <li>DHSS may also release information in medical record form to other public health authorities or co-investigators of a health study.</li> </ul>	<p>intervention.</p> <p><b>Public Health Activities</b> <b>§164.512(b)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul> <p><b>Covered Entity</b> <b>§160.103</b></p> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul> <p><b>Hybrid Entity</b> <b>§164.504(a)</b></p> <ul style="list-style-type: none"> <li>A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care</li> </ul>			<p>is a permissible public health activity.</p> <ul style="list-style-type: none"> <li>DHSS is a CE to the extent it is a health care provider but it is a hybrid entity because it also has non-covered functions.</li> <li>Because the state law limitations on further disclosure by DHSS related to its function as a public health authority and not as a covered health care provider, HIPAA does not regulate such disclosure.</li> <li>Thus, further disclosure by DHSS is governed by state law.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>components.</p> <p><b>Health Care Component §164.504(b)</b></p> <ul style="list-style-type: none"> <li>HIPAA only applies to the health care component of a hybrid entity.</li> </ul>				
<p><b>Reporting by HMOs to DHSS §192.068</b></p> <ul style="list-style-type: none"> <li>Entities licensed pursuant to §§354.400-354.636, RSMo are required to submit certain data to DHSS regarding quality of care, access to care, member satisfaction and member health status.</li> <li>DHSS is limited in its release of such information to the public.</li> </ul>	<p><b>Preemption Exception §160.203(c)</b></p> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law requires a health plan to report or allow access to information for the purpose of management and financial audits, program monitoring and evaluation, or the licensure or certification of facilities or individuals.</li> </ul> <p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity</li> </ul>	No	State	<ul style="list-style-type: none"> <li>HMOs as CEs may report data to DHSS pursuant to state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by law and is a permissible public health activity.</li> <li>DHSS is a CE to the extent it is a health care provider but it is a hybrid entity because it also has non-covered functions.</li> <li>Because the state law limitations on</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</p> <p><b>Public Health Activities</b>  <b>§164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>• CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul> <p><b>Covered Entity</b>  <b>§160.103</b></p> <ul style="list-style-type: none"> <li>• A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul> <p><b>Hybrid Entity</b>  <b>§164.504(a)</b></p> <ul style="list-style-type: none"> <li>• A hybrid entity is a type of covered entity that has</li> </ul>			<p>further disclosure by DHSS relate to its function as a public health authority and not as a covered health care provider, HIPAA does not regulate such disclosure.</p> <ul style="list-style-type: none"> <li>• Thus, further disclosure by DHSS is governed by state law.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>covered and non-covered functions. Such entities have the obligation to designate their health care components.</p> <p><b>Health Care Component §164.504(b)</b></p> <ul style="list-style-type: none"> <li>HIPAA only applies to the health care component of a hybrid entity.</li> </ul>				
<p><b>Reporting by Medical Treatment Facilities and Nursing Homes §192.138</b></p> <ul style="list-style-type: none"> <li>Institutions licensed under Chapter 197 and 198, RSMo are required to report infectious diseases pursuant to state law only to the extent it is consistent with federal law.</li> </ul>	<p><b>Preemption Exception §160.203(c)</b></p> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report infectious diseases under state law without further limitation and without violating HIPAA because such reports are exempted from preemption and their disclosure is required by law and is a permissible public health activity.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</p> <p><b>Public Health Activities</b>  <b>§164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>• CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>				
<p><b>Reporting of Cancer Cases</b>  <b>§§192.650; 192.653; 192.655</b>  <b>19 CSR 70-21.010</b></p> <ul style="list-style-type: none"> <li>• Requires physicians and other health care providers to report to DHSS certain information regarding malignant neoplasms.</li> <li>• Gives DHSS authority to promulgate regulations</li> </ul>	<p><b>Preemption Exception</b>  <b>§160.203(c)</b></p> <ul style="list-style-type: none"> <li>• Generally, HIPAA preempts contrary state laws.</li> <li>• One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance,</li> </ul>	No	State	<ul style="list-style-type: none"> <li>• CEs may report data regarding malignant neoplasms to DHSS pursuant to state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by law and is a permissible</li> </ul>	<ul style="list-style-type: none"> <li>• Per 19 CSR 70-21.010, Hospitals that electronically report such information must use the North American Association of Central Cancer Registries (NAACCR) layout.</li> <li>• The CDC National</li> </ul>

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>regarding such reporting.</p> <ul style="list-style-type: none"> <li>Places limitations on the release of information and data by DHSS for exchange for cancer registries; Patient's identity must be protected.</li> </ul>	<p>investigation or intervention.</p> <p><b>As Required by Law</b> <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <p><b>Public Health Activities</b> <b>§164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul> <p><b>Covered Entity</b> <b>§160.103</b></p> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health information in electronic</li> </ul>			<p>public health activity.</p> <ul style="list-style-type: none"> <li>DHSS is a CE to the extent it is a health care provider but it is a hybrid entity because it also has non-covered functions.</li> <li>Because the state law limitations on further disclosure by DHSS relate to its function as a public health authority and not as a covered health care provider, HIPAA does not regulate such disclosure.</li> <li>Thus, further disclosure by DHSS is governed by state law.</li> </ul>	<p>Program of Cancer Registries (NPCR) provides the minimum data to be reported in addition to the number of years the patient used tobacco.</p> <ul style="list-style-type: none"> <li>NPCR recommends other data be reported as toxic exposure.</li> </ul>

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>form in connection with a transaction covered by HIPAA.</p> <p><b>Hybrid Entity</b> <b>§164.504(a)</b></p> <ul style="list-style-type: none"> <li>A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <p><b>Health Care Component</b> <b>§164.504(b)</b></p> <ul style="list-style-type: none"> <li>HIPAA only applies to the health care component of a hybrid entity.</li> </ul>				
<p><b>Reporting of Patient Abstract and Financial Data by Health Care Providers</b> <b>§192.667</b> <b>19 CSR 10-33.010;</b> <b>19 CSR 10-33.040;</b> <b>19 CSR 10-33.050</b></p> <ul style="list-style-type: none"> <li>Requires hospitals and ambulatory surgical</li> </ul>	<p><b>Preemption Exception</b> <b>§160.203(c)</b></p> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report data to DHSS as required under state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by state law</li> </ul>	<ul style="list-style-type: none"> <li>The Missouri regulations define the following as acceptable electronic media: (1) IBM-3480 compatible (1.2") 18 track tape uncompressed or 3490 compressed; (2) IBM formatted</li> </ul>

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>centers to annually report patient abstract and financial data to DHSS.</p> <ul style="list-style-type: none"> <li>Places limitations on the use and disclosure of the information by DHSS.</li> </ul>	<p>for the conduct of public health surveillance, investigation or intervention.</p> <p><b>As Required by Law</b> <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <p><b>Public Health Activities</b> <b>§164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul> <p><b>Covered Entity</b> <b>§160.103</b></p> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that</li> </ul>			<p>and is a permissible public health activity.</p> <ul style="list-style-type: none"> <li>DHSS is a CE to the extent it is a health care provider but it is a hybrid entity because it also has non-covered functions.</li> <li>Because the state law limitations on use and disclosure by DHSS relate to its function as a public health authority and not as a covered health care provider, HIPAA does not regulate such disclosure.</li> <li>Thus, use and disclosure by DHSS is governed by state law.</li> </ul>	<p>1.44Mb diskette; or (3) other magnetic media may be accepted with prior approval of DHSS.</p>

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>transmit health information in electronic form in connection with a transaction covered by HIPAA.</p> <p><b>Hybrid Entity §164.504(a)</b></p> <ul style="list-style-type: none"> <li>A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <p><b>Health Care Component §164.504(b)</b></p> <ul style="list-style-type: none"> <li>HIPAA only applies to the health care component of a hybrid entity.</li> </ul>				
<p><b>Reporting of Head and Spinal Cord Injuries §192.737</b></p> <ul style="list-style-type: none"> <li>Requires physicians and hospitals to report traumatic head and spinal cord injuries.</li> </ul>	<p><b>Public Health Activities §164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report traumatic head and spinal cord injuries under state law without violating HIPAA because such disclosure is required by law and</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>or disability.</p> <p><b>As Required by Law</b> <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>			is a permissible public health activity.	
<p><b>Communicable Disease Exposure: Notification of First Responders</b> <b>§§192.800, 192.802, 192.804, 192.806, 192.808</b> <b>19 CSR 30-40.047</b></p> <p><b>§192.800</b></p> <ul style="list-style-type: none"> <li>Definitions.</li> </ul> <p><b>§192.802</b></p> <ul style="list-style-type: none"> <li>“First responders” and “Good Samaritans” may, after an exposure that may present a significant risk of a communicable disease, request that the</li> </ul>	<p><b>As Required by Law</b> <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <p><b>Public Health Activities</b> <b>§164.512(b)(1)(iv)</b></p> <ul style="list-style-type: none"> <li>CEs may report PHI to a person who may have been exposed to a communicable disease or</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose information about communicable diseases as required by state law without violating HIPAA because such disclosure is required by law and is a permissible public health activity.</li> <li>The designated health officer could be from DHSS or a local public health agency and therefore</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>licensed facility or designated health officer report certain information to the first responder or Good Samaritan if they determine that such an exposure did occur. Testing of the patient for communicable diseases is not authorized or required by this statute.</p> <p><b>§§192.804; 192.806</b></p> <ul style="list-style-type: none"> <li>Rules re: form of request for information about communicable disease exposure and process for responding.</li> </ul> <p><b>§192.808</b></p> <ul style="list-style-type: none"> <li>Cannot require testing of patient.</li> </ul> <p><b>19 CSR 30-40.047</b></p> <ul style="list-style-type: none"> <li>Regulation provides details on reporting to first responders and Good Samaritans.</li> <li>Regulation provides limitations on the use of</li> </ul>	<p>may be at risk of contracting or spreading the disease if the CE is authorized by law to notify such person.</p> <p><b>Covered Entity §160.103</b></p> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul> <p><b>Hybrid Entity §164.504(a)</b></p> <ul style="list-style-type: none"> <li>A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <p><b>Health Care Component §164.504(b)</b></p> <ul style="list-style-type: none"> <li>HIPAA only applies to the health care component of</li> </ul>			<p>such officers are part of a CE to the extent the entities are health care providers but they would only be hybrid entities because they would have non-covered functions.</p> <ul style="list-style-type: none"> <li>Because the regulatory limitations on use of communicable disease information by DHSS and similar agencies relates to their public health function, HIPAA does not regulate such disclosure.</li> <li>Thus, further use and disclosure by those agencies is governed by state law.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
communicable disease information by DHSS and local public health agencies.	a hybrid entity.				
<b>Vital Statistics</b>					
<b>Birth and Death Certificates</b> <b>§§193.085, 193.087, 193.105, 193.125, 193.135, 193.145, 193.165, 193.175, 193.225, 193.275, 19 CSR 10-10.010 et seq.</b>  <b>§§193.085, 193.087, 193.105, 193.125, 193.135</b> <ul style="list-style-type: none"> <li>Filing of certificate of live birth required, containing certain medical information.</li> <li>Court order required for access in certain circumstances.</li> </ul> <b>§§193.145, 193.155, 193.165, 193.175</b> <ul style="list-style-type: none"> <li>Filing of death certificate required, containing certain medical information.</li> <li>Disposition of dead body</li> </ul>	<b>Preemption Exception §160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report births and deaths as required by state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by law and is a permissible public health activity.</li> </ul>	<ul style="list-style-type: none"> <li>State law specifies that vital records may be maintained electronically (§§193.085 and 193.225)</li> </ul>

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
and notification of death. <ul style="list-style-type: none"> <li>Amendment of vital records.</li> <li>Inspection and copies of records – disclosure of information.</li> </ul> <b>§193.225, 193.275</b> <ul style="list-style-type: none"> <li>Records may be maintained electronically.</li> <li>Information to be maintained for at least 5 years by the individual or entity filing the report or certification.</li> </ul>	<b>Public Health Activities</b> <b>§164.512(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>				
<b>Death-Disposition of Dead Bodies</b>					
<b>Autopsies</b> <b>§194.115</b> <ul style="list-style-type: none"> <li>Allows certain individuals to consent to an autopsy on a deceased individual.</li> <li>Requires reports of such autopsies to be disclosed, upon request, to the personal representative or administrator of the deceased's estate, the</li> </ul>	<b>As Required by Law</b> <b>§164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose reports of autopsies to the individuals listed in this Missouri statute without violating HIPAA because such disclosures are required by law.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
surviving spouse, any surviving child, parent, brother or sister of the deceased.					
<b>Reporting of Suspected Cases of Sudden Infant Death Syndrome (SIDS) §194.117 19 CSR 40-3.010</b> <ul style="list-style-type: none"> <li>Any person who first discovers or acquires knowledge of the death of an infant between 1 week and 1 year old must report it to the county coroner or medical examiner when the child died suddenly when in apparent good health.</li> <li>Coroner or medical examiner shall notify DHSS of the results of the autopsy.</li> <li>Pathologist who performs the autopsy shall, upon request by the parents or guardian, release autopsy results to the parents, guardian or family</li> </ul>	<b>Preemption Exception §160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report deaths to the county coroner or medical examiner under state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by law and is a permissible public health activity.</li> <li>Because the coroner and medical examiner are not CEs, HIPAA does not regulate their release of PHI. State law should be followed.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
physician in cases of suspected SIDS.	<b>Public Health Activities</b> <b>§164.512(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul> <b>Covered Entity</b> <b>§160.103</b> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul>				
<b>Bodies of Paupers: Disposal and Distribution</b> <b>§§194.150 and 194.160</b> <ul style="list-style-type: none"> <li>Hospitals and other entities having custody of the body of any deceased person required to be buried at public expense are required to notify the</li> </ul>	<b>Individually Identifiable Health Information</b> <b>§160.103</b> <ul style="list-style-type: none"> <li>Individually identifiable health information includes health information relating to past present or future physical or mental health</li> </ul>	No	State	<ul style="list-style-type: none"> <li>The body of a deceased person may be considered PHI to the extent the identity of the corpse is identifiable by its appearance.</li> <li>CEs may provide the notification and</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
Missouri State Anatomical Board and deliver the body to the board, which is then authorized to deliver the body to educational institutions to use for the study of human anatomy. Bodies delivered to educational institutions must have name and cause of death in the record being sent with body.	<p>or condition of an individual.</p> <p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>			delivery of a body to the Missouri State Anatomical Board under state law without violating HIPAA because it is required by state law.	
<p><b>Uniform Anatomical Gift Act</b>  <b>§§194.220, 194.260, 194.263, 194.265, 194.295</b></p> <p><b>§194.220</b></p> <ul style="list-style-type: none"> <li>Establishes an organ and tissue donor registry.</li> </ul> <p><b>§194.260</b></p> <ul style="list-style-type: none"> <li>Requires a record search to determine if individual who is dead or near death wishes to be an organ donor.</li> </ul>	<p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <p><b>TPO §164.506</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment,</li> </ul>	No	State	<ul style="list-style-type: none"> <li>Review of records under the Uniform Anatomical Gift Act under Missouri law is permissible under HIPAA to the extent that it is required by law.</li> <li>In addition, the permitted access to records for purposes of ensuring the medical suitability of a donation is permissible under</li> </ul>	<ul style="list-style-type: none"> <li>To the extent the Uniform Anatomical Gift Act does not limit or supersede §7001 of the Electronic Signatures in Global and National Commerce Act (15 USC §7001 et seq.), which generally treats electronic signatures, contracts or other records as valid, it should</li> </ul>

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p><b>§194.263</b></p> <ul style="list-style-type: none"> <li>Requires access to documents evidencing an anatomical gift or refusal by a deceased individual.</li> </ul> <p><b>§194.265</b></p> <ul style="list-style-type: none"> <li>Permits examination of medical records of donor or prospective donor by hospital personnel and the person receiving the donation to ensure the medical suitability of the donation.</li> </ul> <p><b>§194.294</b></p> <ul style="list-style-type: none"> <li>The Uniform Anatomical Gift Act supersedes and limits the Electronic Signatures in Global and National Commerce Act (15 USC §7001 et seq.) except for §7001 of that act (which generally treats electronic signatures, contracts or other records as valid). However, the Uniform Anatomical Gift Act does</li> </ul>	<p>payment and health care operations.</p>			<p>HIPAA because it is for treatment purposes.</p>	<p>facilitate electronic exchange of health information.</p>

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
not authorize electronic delivery of the notices described in 15 USC §7003(b).					
<b>Drug Regulations</b>					
<b>Warrants for Administrative Inspections §195.375</b> <ul style="list-style-type: none"> <li>A judge may issue warrants for administrative inspections pursuant to the Comprehensive Drug Control Act of 1989.</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to law enforcement officials executing a warrant issued under this section of Missouri law without violating HIPAA because such disclosure is a permissible health oversight activity and has a valid law enforcement purpose.</li> </ul>	
<b>Prescriptions, Orders, Records and Stocks of Controlled Substances §195.415</b> <ul style="list-style-type: none"> <li>Federal, state, county and municipal officers may inspect prescriptions, orders, records and</li> </ul>	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI related to controlled substances under this Missouri statute without violating HIPAA because such disclosure is</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>stocks of controlled substances for law enforcement purposes.</p> <ul style="list-style-type: none"> <li>Officers may not further disclose such information unless pursuant to a prosecution or proceeding in court or before a licensing or registration board.</li> </ul>	<p>limited to the requirements of such law.</p> <p><b>Covered Entity §160.103</b></p> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul>			<p>required by state law.</p> <ul style="list-style-type: none"> <li>Because law enforcement officers are not CEs under HIPAA, their disclosure is not governed by HIPAA. However, it is limited by this section of state law.</li> </ul>	
<b>Medical Treatment Facility Licenses</b>					
<p><b>Licensure: Hospitals, Ambulatory Surgical Centers, Hospices and Home Health Agencies §§197.100, 197.230, 197.258, 197.425</b></p> <p><b>19 CSR 30-20.015(5) &amp; (6) (hospitals)</b></p> <p><b>19 CSR 30-30.020(1)(A)(5) (ASCs)</b></p> <p><b>19 CSR 30-35.030(2) (hospices)</b></p> <p><b>19 CSR 30-26.010(2)(E) (home health agencies)</b></p> <ul style="list-style-type: none"> <li>DHSS has authority to investigate and survey hospitals, ASCs hospices</li> </ul>	<p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to DHSS during surveys and investigations under these sections without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
and home health agencies. • The authority of DHSS specifically includes access to all information related to patient care.					
<b>Whistleblower Provisions §197.285</b> • If certain requirements are met, employees of hospitals and ambulatory surgical centers and their compliance or management officials may disclose to DHSS and other appropriate governmental authorities information relevant to reports of facility mismanagement, violations of law and the ability of employees to successfully perform their assigned duties.	<b>Health Oversight Activities §164.512(d)</b> • CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.	No	State	• CEs, including their workforces, may disclose PHI to DHSS and other appropriate governmental authorities pursuant to state law without violating HIPAA because such disclosure is a permissible health oversight activity.	
<b>Convalescent, Nursing and Boarding Homes</b>					
<b>Licensure: Long-Term Care Facilities §§198.022, 198.526</b>	<b>Health Oversight Activities §164.512(d)</b> • CEs may disclose PHI to	No	State	• CEs may disclose PHI to DHSS as part of an inspection	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>19 CSR 30-85.012 et seq.</b> <b>19 CSR 30-86.012 et seq.</b> <ul style="list-style-type: none"> <li>DHSS is authorized to inspect all records of a residential care facility I, a residential care facility II, an intermediate care facility and a skilled nursing facility.</li> <li><b>§198.526</b> Division of Aging previously had authority to inspect all facilities licensed by such division. (The Division of Aging was transferred from DSS to DHSS).</li> </ul>	health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.			under state law without violating HIPAA because it is a permissible health oversight activity.	
<b>Long-Term Care Records: Release by DHSS §198.032</b> <ul style="list-style-type: none"> <li>Places limitations on the release of confidential medical, social, personal or financial records of long-term care residents by DHSS.</li> <li>DHSS must electronically record and maintain a hotline caller</li> </ul>	<b>Covered Entity §160.103</b> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul> <b>Hybrid Entity §164.504(a)</b>	No	State	<ul style="list-style-type: none"> <li>DHSS is a CE to the extent it is a health care provider but it is a hybrid entity because it also has non-covered functions.</li> <li>Because the state law limitations on disclosure of PHI by DHSS relate to its function as a public</li> </ul>	<ul style="list-style-type: none"> <li>DHSS must <i>electronically</i> record and maintain a hotline caller log for reporting of suspected abuse or neglect in long-term care facilities.</li> </ul>

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
log for reporting of suspected abuse or neglect in long-term care facilities.	<ul style="list-style-type: none"> <li>A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <p><b>Health Care Component §164.504(b)</b></p> <ul style="list-style-type: none"> <li>HIPAA only applies to the health care component of a hybrid entity.</li> </ul>			<p>health authority and not as a covered health care provider, HIPAA does not regulate such disclosure.</p> <ul style="list-style-type: none"> <li>Thus, disclosure by DHSS is governed by state law.</li> </ul>	
<p><b>Long-Term Care Facilities: Audits §198.052</b></p> <ul style="list-style-type: none"> <li>Authorizes the State Auditor to examine and audit facility records relating to the operation of a residential care facility I, a residential care facility II, an intermediate care facility or a skilled nursing facility.</li> <li>Places certain limitations of further disclosure by the auditor.</li> </ul>	<p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <p><b>Covered Entity §160.103</b></p> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to the State Auditor pursuant to state law without violating HIPAA because such disclosure is required by law.</li> <li>Subsequent disclosure of PHI by the State Auditor is not governed by HIPAA because the auditor is not a CE.</li> <li>Disclosure by the auditor is limited by</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	information in electronic form in connection with a transaction covered by HIPAA.			the provisions of state law.	
<b>Abuse or Neglect of Long-Term Care Residents §198.070</b> <ul style="list-style-type: none"> <li>Certain individuals and entities are required to report to DHSS when they have reasonable cause to believe that a resident of a residential care facility I, a residential care facility II, an intermediate care facility or a skilled nursing facility has been abused or neglected.</li> </ul>	<b>Victims of Abuse, Neglect or Domestic Violence §164.512(c)</b> <ul style="list-style-type: none"> <li>CE may disclose PHI to an agency authorized to receive information about an individual believed to be a victim of abuse, neglect or domestic violence to the extent such disclosure is required by law and complies with the requirements of that law.</li> <li>If the CE discloses PHI pursuant to this section of HIPAA, it must inform the individual of the disclosure except for certain delineated situations where the safety of the individual is at risk.</li> </ul> <b>As Required by Law §164.512(a); 164.512(a)(2)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>CEs may report abuse to DHSS under state law without violating HIPAA because such reporting is required by law.</li> <li>However, to the extent HIPAA requires notice to the individual, it is more stringent and must be followed.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</p> <ul style="list-style-type: none"> <li>CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f).</li> </ul>				
<p><b>Licensure: Alzheimer's Category</b> <b>§198.086</b></p> <ul style="list-style-type: none"> <li>Creates a pilot project for the development of a licensing category for treatment of Alzheimer's patients.</li> <li>Pilot projects are monitored by DHSS, which has access to patient information.</li> </ul>	<p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to DHSS pursuant to its licensure activities without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	
<p><b>Patient Rights: Long-Term Care Residents</b> <b>§198.088</b></p> <ul style="list-style-type: none"> <li>Rights of long-term care residents include, among</li> </ul>	<p><b>§§164.506, 164.508, 164.510 and 164.512</b></p> <ul style="list-style-type: none"> <li>Various uses and disclosures are authorized in these sections of</li> </ul>	*	*	<ul style="list-style-type: none"> <li>CEs may release the PHI of residents only if both state law and HIPAA would otherwise authorize</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
other things, the right to confidential treatment, which prohibits the release of information about the resident's treatment without written consent of the resident unless the person is otherwise <i>authorized by law</i> to receive it.	HIPAA, provided certain requirements are met.			such disclosure. Note that under state law, the consent of the resident is required unless the person is otherwise authorized by law to receive the information. <ul style="list-style-type: none"><li>• <i>*The circumstances of permitted disclosures of such PHI under Missouri law are covered elsewhere in this analysis.</i></li></ul>	
<b>Fraud Investigation Division</b> <b>§§198.161 and 198.180</b> <ul style="list-style-type: none"><li>• Allows the director of the Fraud Investigation Division of the Department of Social Services to investigate suspected fraud violations and audit and inspect records of long-term care providers.</li></ul>	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"><li>• CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li></ul> <b>Health Oversight Activities §164.512(d)</b>	No	State	<ul style="list-style-type: none"><li>• CEs may disclose PHI pursuant to a fraud investigation under state law without violating HIPAA because such disclosure is required by state law and is a permissible health oversight activity.</li></ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>				
<b>Licensure: Disclosure of Long-Term Care Investigation Results §198.532</b> <ul style="list-style-type: none"> <li>Results of investigations of long-term care facilities under Chapter 198, RSMo may be disclosed by DHSS with certain limitations. This section allows for reports to be provided by DHSS <i>and the long-term care facility</i> to any of the facility's residents or their family members or guardians upon request and to the public, provided that "personal information identifying the resident" is "blanked out."</li> </ul>	<b>Authorizations §164.508</b> <ul style="list-style-type: none"> <li>Except as otherwise permitted under HIPAA, a CE may not use or disclose PHI without an authorization.</li> <li>The content of such authorization must comply with HIPAA standards.</li> </ul> <b>De-identification of PHI §164.514</b> <ul style="list-style-type: none"> <li>Lists all elements of PHI that must be eliminated in order to de-identify the PHI.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>CEs may <i>not</i> disclose PHI that is included in an investigation report to residents, family members, guardians or the public under this provision of state law because HIPAA is more stringent in that HIPAA would require an authorization or de-identification of the PHI.</li> <li>Though individuals are generally entitled to the information in their designated record set, reports of investigations are</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
				<p>not part of those record sets and thus an authorization is required for disclosure of such investigation records to the individual or their personal representative.</p> <ul style="list-style-type: none"> <li>The “blinking out” of “personal information identifying the resident” must comply with the HIPAA de-identification requirements in order to allow disclosure without a HIPAA compliant authorization.</li> </ul>	
<b>Rehabilitation Center-Head Injury-Tuberculosis Testing</b>					
<b>Rehabilitation Facilities: Confidentiality of Records §199.033</b>  <u>General Confidentiality</u> <ul style="list-style-type: none"> <li>Makes records of</li> </ul>	<b>Uses and Disclosures: General Rules</b>	No	State	<ul style="list-style-type: none"> <li>Records of rehabilitation</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>rehabilitation facilities confidential.</p> <p><u>Required Disclosures</u></p> <ul style="list-style-type: none"> <li>Requires disclosure of such patient information and records upon request by certain individuals.</li> </ul> <p><u>Permitted Disclosures</u></p> <ul style="list-style-type: none"> <li>Permits disclosure of patient information and records under the any of the following circumstances:</li> </ul> <p>1. As authorized by the patient.</p>	<p><b>§164.502</b></p> <ul style="list-style-type: none"> <li>CEs may not use or disclose PHI except as permitted under HIPAA.</li> </ul> <p><b>As Required by Law</b> <b>§164.512(a); 164.512(a)(2)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> <li>CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f)</li> </ul> <p><b>Authorizations</b> <b>§164.508</b></p> <ul style="list-style-type: none"> <li>Except as otherwise permitted under HIPAA, a CE may not use or disclose PHI without an authorization.</li> </ul>	<p>No</p> <p>Yes</p>	<p>State</p> <p>HIPAA</p>	<p>facilities are confidential under both state law and HIPAA.</p> <ul style="list-style-type: none"> <li>CEs may disclose patient information and records of rehabilitation facilities to the individuals listed in §199.033.2, RSMo without violating HIPAA because it is required by state law.</li> <li>Because HIPAA is more stringent than state law with respect to the contents of an authorization, it preempts state law.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>2. To those responsible for providing health care.</p> <p>3. As necessary to make a claim for payment.</p> <p>4. To qualified personnel for the purpose of conducting research, management audits, financial audits, program evaluations or similar studies.</p>	<ul style="list-style-type: none"> <li>The content of such authorization must comply with HIPAA standards.</li> </ul> <p><b>TPO</b> <b>§164.506</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <p><b>Notice of Privacy Practices</b> <b>§164.520(c)(2)</b></p> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Thus, CEs may not disclose information and records of patients at rehabilitation facilities as permitted under state law unless the authorization is HIPAA compliant or a HIPAA exception applies.</li> <li>Because disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires compliance with requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</li> <li>Thus, CEs that are direct treatment providers may disclose PHI to those responsible for</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
5. To the courts as necessary for the administration of §§199.001 to 199.055, RSMo (injury prevention, head injury rehabilitation and local health services).	<p><b>Research</b> <b>§164.512(i)</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for research purposes if meet certain requirements.</li> </ul> <p><b>Judicial and Administrative Proceedings</b> <b>§164.512(e)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a</li> </ul>	Yes	HIPAA	<p>providing treatment, to make a claim for payment or for operational purposes such as audits and evaluations only if they comply with the more stringent requirements for the HIPAA NPP acknowledgment.</p> <ul style="list-style-type: none"> <li>If the disclosure is for <i>research</i> purposes, CEs must comply with HIPAA's more stringent disclosure requirements.</li> <li>Though this portion of §199.033, RSMo does not have any requirements for disclosure to the courts for the delineated purpose, HIPAA has more stringent requirements that must be met if the</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
7. Pursuant to an order of a court or administrative agency of competent jurisdiction.	<p>public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</p> <p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul> <p><b>Judicial and Administrative Proceedings §164.512(e)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery request or other lawful</li> </ul>	Yes	State	<p>Missouri law could contemplate both public health activities and health oversight activities under HIPAA. The laws do not appear to conflict so CEs may disclose PHI pursuant to this portion of §199.033, RSMo without violating HIPAA.</p> <ul style="list-style-type: none"> <li>Though HIPAA would allow disclosure to courts and administrative agencies without a court order if certain conditions are met, <u>Missouri law requires a court order</u> in this portion of §199.033, RSMo. Thus, Missouri law is more stringent and</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
8. To DHSS as necessary to report or investigate abuse, neglect or violations of patients' rights.	<p>process.</p> <p><b>Victims of Abuse, Neglect or Domestic Violence §164.512(c)</b></p> <ul style="list-style-type: none"> <li>CE may disclose PHI to an agency authorized to receive information about an individual believed to be a victim of abuse, neglect or domestic violence to the extent such disclosure is required by law and complies with the requirements of that law.</li> <li>If the CE discloses PHI pursuant to this section of HIPAA, it must inform the individual of the disclosure except for certain delineated situations where the safety of the individual is at risk.</li> </ul>	Yes	HIPAA	<p>CEs may only disclose patient records of rehabilitation facilities under this section with a court order.</p> <ul style="list-style-type: none"> <li>To the extent HIPAA requires appropriate notice to the individual for reports of abuse and neglect other than child abuse or neglect, HIPAA is more stringent than state law, which does not require any notice to the abused or neglected individual.</li> </ul> <p>CEs may report abuse under this section only if they provide the appropriate notice to the abused/neglected individual under HIPAA.</p>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p><b>Commitment and Hospitalization of Tuberculosis (TB) Patients</b>  <b>§§199.170; 199.180, 199.200; 199.240; 199.270</b>  <b>19 CSR 20-20.100</b></p> <p><b>§199.170</b></p> <ul style="list-style-type: none"> <li>“Local board” is defined as any legally constituted local city or county board of health or health center board of trustees or the director of health of the city of Kansas City or the commissioner of health of the city of St. Louis, or in the absence of such a board, the county commission or the county board of tuberculosis hospital commissioners of any county.</li> </ul> <p><b>§199.180</b></p> <ul style="list-style-type: none"> <li>The “local board” may file a petition for the commitment of certain patients with TB.</li> </ul>	<p><b>TPO</b>  <b>§164.506</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <p><b>Notice of Privacy Practices</b>  <b>§164.520(c)(2)</b></p> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul> <p><b>Covered Entity</b>  <b>§160.103</b></p> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health information in electronic</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>If the local board is considered to be a CE, its disclosure of PHI for treatment purposes, such as disclosure to the court as part of commitment proceedings, is governed by HIPAA.</li> <li>Because the disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p><b>§199.200</b></p> <ul style="list-style-type: none"> <li>Examination records admissible in court.</li> </ul> <p><b>§199.240</b></p> <ul style="list-style-type: none"> <li>Cannot require TB patients to submit to treatment without the patient's consent.</li> </ul> <p><b>§199.270</b></p> <ul style="list-style-type: none"> <li>Procedure for release of committed TB patient.</li> </ul> <p><b>19 CSR 20-20.100</b></p> <ul style="list-style-type: none"> <li>Requires suspected or confirmed cases of TB to be reported to DHSS or a local health authority.</li> </ul>	<p>form in connection with a transaction covered by HIPAA.</p> <p><b>Public Health Activities</b> <b>§164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul> <p><b>As Required by Law</b> <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity</li> </ul>	No	State	<p>law.</p> <ul style="list-style-type: none"> <li>Thus, if the local board is considered a CE that is a direct treatment provider, it may disclose PHI by filing a petition with the court under this provision of state law only if it complies with the more stringent requirements for the HIPAA NPP acknowledgment.</li> <li>CEs may report cases of TB to public health authorities pursuant to Missouri law without violating HIPAA because it is a permissible public health activity.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.				
<b>County Health and Welfare Programs</b>					
<b>DMH: Information Collection from Community Mental Health Centers §205.988</b> <ul style="list-style-type: none"> <li>• Lists certain duties of DMH with respect to community mental health centers.</li> <li>• One such duty is to develop and collect information needed to perform its duties in a manner that does not identify any individual who received services from a community mental health center as defined in §205.975, RSMo.</li> </ul>	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>• CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>• CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul> <b>De-identification of PHI §164.514</b>	No	State	<ul style="list-style-type: none"> <li>• The collection of information by DMH could involve PHI that does not “identify” an individual under Missouri law but may be different from “de-identified” information under HIPAA.</li> <li>• CEs may disclose PHI to DMH as part of this collection process without violating HIPAA because such disclosure is required by state law and is a permissible health oversight activity.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<ul style="list-style-type: none"> <li>Lists all elements of PHI that must be eliminated in order to de-identify the PHI.</li> </ul>				
<b>Old Age Assistance, Aid to Dependent Children and General Relief</b>					
<b>Medicaid Program</b> <b>§§208.155, 208.164, 208.175, 208.176, 208.201, 208.204, 208.215 and 208.217</b>  <b>§208.155</b> <ul style="list-style-type: none"> <li>Records of applicants and recipients are confidential.</li> </ul> <b>§208.164</b> <ul style="list-style-type: none"> <li>Confidential reporting of fraud and abuse.</li> <li>Oversight/review of claims records</li> <li>Investigation and sanctions for fraud or abuse.</li> </ul> <b>§208.175</b> <ul style="list-style-type: none"> <li>Drug Utilization Review Board for oversight of drug use and prescribing</li> </ul>	<b>Covered Entity</b> <b>§160.103</b> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul> <b>Hybrid Entity</b> <b>§160.103</b> <ul style="list-style-type: none"> <li>A hybrid entity is a CE whose business activities include both covered and non-covered functions.</li> </ul> <b>Health Care Component</b> <b>§164.504(b)</b> HIPAA only applies to the health care component of a hybrid entity.	No	State	<ul style="list-style-type: none"> <li>Mo HealthNet is a CE to the extent it is a covered health plan but it is a hybrid entity because it has non-covered functions such as health care oversight.</li> <li>To the extent Mo HealthNet uses and discloses PHI for TPO in its capacity as a health plan, it may do so in compliance with state law without violating HIPAA because the NPP acknowledgment requirements only apply to direct treatment providers.</li> <li>To the extent Mo</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>practices under the Medicaid program.</p> <p><b>§208.176</b></p> <ul style="list-style-type: none"> <li>Prospective review of drug therapy</li> <li>For children in legal custody of Dept of Social Services, the Dept must provide for medical treatment and disclose relevant information about such treatment to the appropriate judge.</li> </ul> <p><b>§208.201</b></p> <ul style="list-style-type: none"> <li>Mo HealthNet established to replace Division of Medical Services (DMS)</li> </ul> <p><b>§280.215</b></p> <ul style="list-style-type: none"> <li>Recoupment of funds paid by Medicaid program that are later reimbursed by another individual/entity.</li> </ul> <p><b>§208.217</b></p> <ul style="list-style-type: none"> <li>Dept of Social Services</li> </ul>	<p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul> <p><b>TPO §164.506</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <p><b>Notice of Privacy Practices §164.520(c)(2)</b></p> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul>			<p>HealthNet uses and discloses PHI for one of its non-covered functions, HIPAA does not apply and state law should be followed.</p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI to DMS for health care oversight purposes without violating HIPAA.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
may obtain insurance information on patients who receive benefits under state Medicaid program.					
<b>Aid to the Blind-Rights of Persons with Visual, Hearing or Physical Disabilities</b>					
<b>Interpreters for Deaf and Speech Impaired Persons §§209.263, 209.265 and 209.339</b> <b>§§209.263 and 209.265</b> <ul style="list-style-type: none"> <li>Information provided to a person who interprets, translates or relays a conversation between a person who can hear and deaf person is confidential and may not be disclosed without the consent or written permission of the deaf person or a court order.</li> <li>Information that would be privileged is still privileged even if an auxiliary aid and service provider or relay agent is used.</li> </ul>	<b>Authorizations §164.508</b> <ul style="list-style-type: none"> <li>Except as otherwise permitted under HIPAA, a CE may not use or disclose PHI without an authorization.</li> <li>The content of such authorization must comply with HIPAA standards.</li> </ul>	Yes	HIPAA	<u>Consent/Authorization</u> <ul style="list-style-type: none"> <li>To the extent Missouri law permits disclosure of PHI with the “consent” or “written permission” of the patient, it is preempted by HIPAA, which has more stringent requirements concerning the content of an authorization.</li> <li>Thus, CEs may not disclose the contents of an interpreted conversation under state law unless a HIPAA compliant authorization is obtained.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>§209.339</b> <ul style="list-style-type: none"><li>The contents of the interpreted conversation may not be withheld when requested as part of procedures for disciplining a licensee or in determining whether an individual has practiced interpreting without a license.</li></ul>	<b>Judicial and Administrative Proceedings</b> <b>§164.512(e)(1)(i)</b> <ul style="list-style-type: none"><li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery request or other lawful process.</li></ul>	No	State	<u>Court Order</u> <ul style="list-style-type: none"><li>To the extent Missouri law would permit disclosure pursuant to a court order, CEs may do so without violating HIPAA.</li></ul>	
	<b>As Required by Law</b> <b>§164.512(a)</b> <ul style="list-style-type: none"><li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li></ul>	No	State	<u>Licensing/Discipline</u> <ul style="list-style-type: none"><li>CEs may disclose the contents of an interpreted conversation as part of the licensure/ disciplinary process under state law without violating HIPAA because it is required by law.</li></ul>	
Child Protection and Reformation					
<b>Reporting of Blood Tests of Pregnant Women</b>	<b>Preemption Exception</b> <b>§160.203(c)</b>	No	State	<ul style="list-style-type: none"><li>CEs may report information about</li></ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p><b>§§210.040 and 210.050</b></p> <ul style="list-style-type: none"> <li>• <b>210.040</b> Positive results for syphilis or hepatitis B must be reported to the county or municipal department of health where the pregnant woman resides.</li> <li>• <b>§210.050</b> When reporting births and stillbirths as required by law, physicians and others must also report whether a blood test for syphilis was performed, including the date and location of the test, or, if no test, the reason for not conducting the test. They must also report whether a blood test for hepatitis B was performed.</li> </ul>	<ul style="list-style-type: none"> <li>• Generally, HIPAA preempts contrary state laws.</li> <li>• One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <p><b>As Required by Law</b> <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>• CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <p><b>Public Health Activities</b> <b>§164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>• CEs may disclose PHI to a public health authority authorized to receive such information for the</li> </ul>			<p>blood tests on pregnant women as required under state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by law and is a permissible public health activity.</p>	

Missouri Statute	HIPAA Privacy Regulations	Conflict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	purpose of preventing or controlling disease, injury or disability.				
<b>Reporting of Infant Eye Inflammation</b> <b>§§210.070 and 210.080</b> <ul style="list-style-type: none"> <li>Requires certain physicians, midwives and nurses to deliver prophylactic drops in the eyes of newborns and then report compliance to the board of health or county physician of the city, town or county where the birth occurs.</li> <li>Requires reporting of certain cases of infant eye inflammation within first two weeks after birth.</li> </ul>	<b>Preemption Exception §160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report infant eye inflammation as required under state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by law and is a permissible public health activity.</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<b>Public Health Activities</b> <b>§164.512(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>				
<b>Reporting and Investigation of Child Abuse</b> <b>§§210.109; 210.111; 210.115; 210.120; 210.125; 210.130; 210.140; 210.145; 210.150; 210.152; 210.160; 210.167; 210.183</b> <ul style="list-style-type: none"> <li>Covers persons and officials who must report or cause a report to be made to DHSS if they have reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or observes a child being subjected to circumstances that would reasonably result in</li> </ul>	<b>Preemption Exception</b> <b>§160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <b>As Required by Law</b> <b>§164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report child abuse or neglect as required under state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by law and/or is a permissible public health activity.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>abuse or neglect.</p> <ul style="list-style-type: none"> <li>All other persons not listed in 210.115 <i>may</i> report suspected child abuse or neglect</li> </ul>	<p>to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</p> <p><b>Public Health Activities §164.512(b)(1)(ii)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive reports of child abuse or neglect.</li> </ul>				
<p><b>Death of Children: Child Fatality Review Panel §§210.192 and 210.196</b></p> <ul style="list-style-type: none"> <li>The Child Fatality Review Panel reviews deaths of certain children under the age of eighteen years.</li> <li>The panel issues a final report of each investigation, which is a public record.</li> <li>DHSS reviews the reports and periodically prepares epidemiological reports describing the</li> </ul>	<p><b>Preemption Exception §160.203</b></p> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report deaths to be reviewed by the Child Fatality Review Panel under state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by law and is a permissible public health activity.</li> <li>Though members of</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>incidence, causes, location and other factors pertaining to childhood deaths.</p> <ul style="list-style-type: none"> <li>Hospitals, physicians, medical professionals, mental health professionals or DMH facilities are required to disclose upon request all records of children whose deaths are eligible to be reviewed by the panel.</li> </ul>	<p><b>As Required by Law</b> <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <p><b>Public Health Activities</b> <b>§164.512(b)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul> <p><b>Covered Entity</b> <b>§160.103</b></p> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul>			<p>the panel may be CEs, the panel itself is not. It has no covered functions. Thus, disclosure by the panel is not covered by HIPAA.</p> <ul style="list-style-type: none"> <li>Disclosure by DHSS in the form of epidemiological reports could involve PHI that is not de-identified because it has the location of the death. Though DHSS may be considered a hybrid entity, the release of epidemiological reports is not a covered function and thus would not be governed by HIPAA.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p><b>Hybrid Entity</b> <b>§164.504(a)</b></p> <ul style="list-style-type: none"> <li>A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <p><b>Health Care Component</b> <b>§164.504(b)</b></p> <ul style="list-style-type: none"> <li>HIPAA only applies to the health care component of a hybrid entity.</li> </ul> <p><b>De-identification of PHI</b> <b>§164.514</b></p> <ul style="list-style-type: none"> <li>Lists all elements of PHI that must be eliminated in order to de-identify the PHI.</li> </ul>				
<p><b>Permanency Hearings</b> <b>§210.720</b></p> <ul style="list-style-type: none"> <li>Court shall consider the mental and physical health of all individuals involved including any history of abuse.</li> </ul>	<p><b>Judicial and Administrative Proceedings</b> <b>§164.512(e)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>CEs may not disclose PHI at a permanency hearing unless for disclosure as part of judicial and administrative proceedings.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery request or other lawful process.</p> <p><b>As Required by Law §164.512(a); 164.512(a)(2)</b></p> <ul style="list-style-type: none"> <li>• CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> <li>• CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f).</li> </ul>			<ul style="list-style-type: none"> <li>• Need court order, administrative order or, in certain circumstances, subpoena, discovery request or other lawful request.</li> </ul>	
<p><b>Paternity Hearings §210.832</b></p> <ul style="list-style-type: none"> <li>• The testimony of a physician at a paternity hearing about the medical circumstances of the pregnancy and the</li> </ul>	<p><b>Uses and Disclosures: General Rules §164.502</b></p> <ul style="list-style-type: none"> <li>• CEs may not use or disclose PHI except as permitted under HIPAA.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>• Though the information disclosed under this provision of Missouri law is not privileged under state law, HIPAA is</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
condition of the child at birth is not privileged.	<p><b>Authorizations</b> <b>§164.508</b></p> <ul style="list-style-type: none"> <li>• Except as otherwise permitted under HIPAA, a CE may not use or disclose PHI without an authorization.</li> <li>• The content of such authorization must comply with HIPAA standards.</li> </ul> <p><b>Judicial and Administrative Proceedings</b> <b>§164.512(e)(1)(i)</b></p> <ul style="list-style-type: none"> <li>• CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery request or other lawful process.</li> </ul>			<p>more stringent in that it prohibits disclosure unless pursuant to a valid authorization or an appropriate exception.</p> <ul style="list-style-type: none"> <li>• Thus, CEs may not disclose PHI at a paternity hearing unless they follow the HIPAA requirements for an authorization or the requirements for disclosure as part of judicial and administrative proceedings.</li> <li>• Need valid HIPAA authorization, court order, administrative order, or in certain circumstances, a subpoena, discovery request or other lawful request.</li> </ul>	
<b>Paternity Cases: Required Blood Tests</b>	<b>Judicial and Administrative Proceedings</b>	No	State	<ul style="list-style-type: none"> <li>• CEs may disclose the results of blood</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>§210.834</b> <ul style="list-style-type: none"> <li>The court may and upon request of any party require another party to the action and any male witness to submit to blood tests and have results disclosed in a paternity case.</li> </ul>	<b>§164.512(e)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery request or other lawful process.</li> </ul> <b>As Required by Law</b> <b>§164.512(a); 164.512(a)(2)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> <li>CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f).</li> </ul>			tests in a paternity case based on an order of the court under §210.834, RSMo without violating HIPAA because both state law and HIPAA permit disclosure in response to a court order.	
<b>Juvenile Courts</b>					
<b>Juveniles and 17-year-olds:</b>	<b>As Required by Law</b>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p><b>Court-Ordered Physical or Mental Examinations</b>  <b>§§211.161, 211.202 and 211.203</b>  <b>§211.161</b></p> <ul style="list-style-type: none"> <li>• A court may order a child or 17-year-old within the juvenile court's jurisdiction to be examined by a physician, psychiatrist or psychologist appointed by the court in order to determine the condition of the individual as it may be relevant to the disposition of such individual's case.</li> </ul> <p><b>§211.202</b></p> <ul style="list-style-type: none"> <li>• A court may order a child or 17-year-old within the juvenile court's jurisdiction to be examined by a physician, psychiatrist or psychologist appointed by the court or by the department of mental health if the child appears to be mentally disordered</li> </ul>	<p><b>§164.512(a); 164.512(a)(2)</b></p> <ul style="list-style-type: none"> <li>• CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> <li>• CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f)</li> </ul> <p><b>Judicial and Administrative Proceedings</b>  <b>§164.512(e)(1)(i)</b></p> <ul style="list-style-type: none"> <li>• CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery request or other lawful process.</li> </ul>			<p>their evaluation of a child or 17-year-old to the court under these Missouri statutes without violating HIPAA because such disclosure is required by law and will ordinarily be in response to an order of the court.</p>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>(other than mentally retarded or developmentally disabled).</p> <ul style="list-style-type: none"> <li>• Reports of such evaluations must be submitted to the court under certain circumstances.</li> </ul> <p><b>§211.203</b></p> <ul style="list-style-type: none"> <li>• A court may order a child or 17-year-old within the juvenile court's jurisdiction to be examined by a physician, psychiatrist or psychologist appointed by the court or by the department of mental health if the child appears to be mentally retarded or developmentally disabled.</li> </ul>					
<p><b>Juveniles: Referral to DMH</b></p> <p><b>§211.207</b></p> <ul style="list-style-type: none"> <li>• The Division of Youth Services within the DSS may refer a child</li> </ul>	<p><b>Covered Entity</b></p> <p><b>§160.103</b></p> <ul style="list-style-type: none"> <li>• A covered entity includes health care providers that transmit health information in electronic</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>• DSS is a health care provider to the extent it is responsible for providing health care to youth in the</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
committed to its custody to DMH for evaluation and a determination of whether the child needs treatment for a mental disorder.	<p>form in connection with a transaction covered by HIPAA.</p> <p><b>Hybrid Entity §164.504(a)</b></p> <ul style="list-style-type: none"> <li>• A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <p><b>Health Care Component §164.504(b)</b></p> <ul style="list-style-type: none"> <li>• HIPAA only applies to the health care component of a hybrid entity.</li> </ul> <p><b>TPO §164.506</b></p> <ul style="list-style-type: none"> <li>• CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <p><b>Notice of Privacy Practices §164.520(c)</b></p> <ul style="list-style-type: none"> <li>• CEs that are direct</li> </ul>			<p>foster care program. It is a health plan because of DMS.</p> <ul style="list-style-type: none"> <li>• As a CE, DSS must comply with HIPAA.</li> <li>• It is a hybrid CE because it has covered and non-covered functions.</li> <li>• When the Division of Youth Services of DSS refers a child to DMH under this provision of state law, it is for treatment purposes.</li> <li>• Because the disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>DMH shall notify the Division whether such treatment is necessary.</li> </ul>	<p>treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</p> <p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li><u>Thus, to the extent DSS is a direct treatment provider, it may disclose PHI for treatment purposes only if it complies with the more stringent requirements for the HIPAA NPP acknowledgment.</u></li> <li>DMH, as a covered entity, may provide PHI to the Division of Youth Services under Missouri law without violating HIPAA because it is required by law.</li> </ul>	
<p><b>Parental Rights: Termination §211.459</b></p> <ul style="list-style-type: none"> <li>Physician-patient privilege cannot prohibit the <i>admission</i> of evidence at a proceeding</li> </ul>	<p><b>Uses and Disclosures: General Rules §164.502</b></p> <ul style="list-style-type: none"> <li>CEs may not use or disclose PHI except as permitted under HIPAA.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Though admission of PHI at a proceeding for termination of parental rights is permissible under state law, HIPAA is</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
for the termination of parental rights.	<b>Authorizations</b> <b>§164.508</b> <ul style="list-style-type: none"> <li>Except as otherwise permitted under HIPAA, a CE may not use or disclose PHI without an authorization.</li> <li>The content of such authorization must comply with HIPAA standards.</li> </ul> <b>Judicial and Administrative Proceedings</b> <b>§164.512(e)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery request or other lawful process.</li> </ul>			<p>more stringent and would require an authorization or appropriate judicial or administrative request.</p> <ul style="list-style-type: none"> <li>CEs may not disclose PHI at a termination proceeding unless they follow the HIPAA requirements for an authorization or the requirements for disclosure as part of judicial and administrative proceedings.</li> </ul>	
<b>CORRECTIONAL AND PENAL INSTITUTIONS</b>					
<b>Department of Corrections</b>					
<b>DOC: Duties</b> <b>§217.015</b>	<b>Covered Entity</b> <b>§160.103</b>	No	State	<ul style="list-style-type: none"> <li>DOC is a health care provider to the</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>DOC is responsible for ensuring that female offenders are provided medical and mental health care.</li> </ul>	<ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul> <p><b>Hybrid Entity</b> <b>§164.504(a)</b></p> <ul style="list-style-type: none"> <li>A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <p><b>Health Care Component</b> <b>§164.504(b)</b></p> <ul style="list-style-type: none"> <li>HIPAA only applies to the health care component of a hybrid entity.</li> </ul>			<p>extent it provides health care to its inmates.</p> <ul style="list-style-type: none"> <li>Such care is ordinarily provided by contract with various health care providers.</li> <li>Because in all likelihood, DOC, either directly or by contract, engages in covered transactions with respect to certain inmates, this analysis assumes DOC is a CE.</li> <li>Because DOC also has non-covered functions, it is a hybrid entity, which means that HIPAA applies to its covered functions.</li> </ul>	
<p><b>DOC: Audits of Records</b> <b>§217.070</b></p> <ul style="list-style-type: none"> <li>The State Auditor shall have access to all records maintained by DOC.</li> </ul>	<p><b>As Required by Law</b> <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As a CE, DOC may disclose PHI to the State Auditor pursuant to state law without violating</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>Confidential records must be disclosed in a manner that does not reveal “personally identifiable information.”</li> </ul>	to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.			<p>HIPAA because such disclosure is required by law but disclosure is limited by the requirements of that law.</p> <ul style="list-style-type: none"> <li>Thus, the PHI must be disclosed by DOC without “personally identifiable information” as that term is interpreted under state law.</li> </ul>	
<p><b>DOC: Offender Medical Records</b> <b>§217.075</b></p> <ul style="list-style-type: none"> <li>Medical records of offenders in the custody of DOC are closed records.</li> <li>Health care providers and hospitals that care for offenders are required to provide copies of medical records upon demand by DOC’s health care administrator.</li> <li>Such providers are not</li> </ul>	<p><b>As Required by Law</b> <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to DOC under this provision of Missouri law without violating HIPAA because such disclosure is required by law.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
liable for a breach of confidentiality under state law.					
<b>DOC: Medical Excuse from Participation of Inmates in Required Activities</b> <b>§217.245</b> <ul style="list-style-type: none"> <li>The medical personnel of a correctional institution shall certify an inmate's reason for not being able to participate in required activities.</li> </ul>	<b>Hybrid Entity</b> <b>§164.504(a)</b> <ul style="list-style-type: none"> <li>A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <b>As Required by Law</b> <b>§164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <b>Health Care Component</b> <b>§164.504(b)</b> HIPAA only applies to the health care component of a hybrid entity.	No	State	<ul style="list-style-type: none"> <li>DOC may disclose PHI as part of a medical excuse under state law without violating HIPAA because such disclosure relates to the administration of the correctional system and not to its function as a health care provider.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>DOC: Inmates with Terminal Illness or Advanced Age</b> <b>§217.250</b> <ul style="list-style-type: none"> <li>When an inmate has a terminal illness or is of such age that continued confinement would be detrimental, the department of corrections may recommend parole to the board of probation and parole or a commutation of sentence to the governor.</li> </ul>	<b>Hybrid Entity</b> <b>§164.504(a)</b> <ul style="list-style-type: none"> <li>A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <b>Health Care Component</b> <b>§164.504(b)</b> <ul style="list-style-type: none"> <li>HIPAA only applies to the health care component of a hybrid entity.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>DOC may disclose PHI as it relates to recommendations for parole or commutation of an inmate's sentence under state law without violating HIPAA because such disclosure relates to the administration of the correctional system and not to its function as a health care provider.</li> </ul>	
<b>DOC: Access to Inmate Records by Board of Probation and Parole</b> <b>§217.270</b> <ul style="list-style-type: none"> <li>The Board of Probation and Parole shall have access to inmate records deemed pertinent by the board in determining whether an inmate should be paroled.</li> </ul>	<b>Hybrid Entity</b> <b>§164.504(a)</b> <ul style="list-style-type: none"> <li>A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <b>Health Care Component</b> <b>§164.504(b)</b> <ul style="list-style-type: none"> <li>HIPAA only applies to the</li> </ul>	No	State	<ul style="list-style-type: none"> <li>DOC may disclose PHI to the Board of Probation and Parole under state law without violating HIPAA because such disclosure relates to the administration of the correctional system and not to its function as a health care provider.</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>health care component of a hybrid entity.</p> <p><b>As Required by Law</b> <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>• CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>				
<p><b>DOC: Classification of Inmates</b> <b>§217.335</b></p> <ul style="list-style-type: none"> <li>• Information from the department of corrections' reception and diagnostic center is provided to a classification team for determining appropriate custodial care and treatment.</li> </ul>	<p><b>TPO</b> <b>§164.506</b></p> <ul style="list-style-type: none"> <li>• CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <p><b>Notice of Privacy Practices</b> <b>§164.520(c)</b></p> <ul style="list-style-type: none"> <li>• CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>• Because the disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</li> <li>• As a direct treatment provider, DOC may disclose PHI under</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
				state law for diagnostic and treatment purposes only if it complies with the more stringent requirements for the HIPAA NPP acknowledgment.	
<b>DOC: Contracts with Residential Treatment Centers §217.430</b> <ul style="list-style-type: none"> <li>DOC may contract with private or public organizations to establish residential treatment facilities and other community-based programs where individuals in the custody of the DOC may be housed and supervised outside of regularly established correctional centers.</li> </ul>	<b>Business Associate §160.103</b> <ul style="list-style-type: none"> <li>The definition of business associate includes entities that perform a function or activity on behalf of a covered entity involving the use or disclosure of individually identifiable health information.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Since DOC is a CE, delegation of its covered function as a health care provider must follow applicable HIPAA business associate requirements.</li> <li>Though state law would not require compliance with BA requirements, HIPAA is more stringent and must be followed.</li> </ul>	
<b>DOC: Interstate Corrections Compact</b>	<b>Business Associate §160.103</b>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Since DOC is a CE, delegation of its</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>§217.535</b> <ul style="list-style-type: none"> <li>DOC may contract with other states to provide custodial care on behalf of Missouri (which may include the provision of medical services). The statute also provides for access to records of such custodial care.</li> </ul>	<ul style="list-style-type: none"> <li>The definition of business associate includes entities that perform a function or activity on behalf of a covered entity involving the use or disclosure of individually identifiable health information.</li> </ul>			<p>function as a correctional institution, which includes its covered function as a health care provider, must follow applicable HIPAA BA requirements.</p> <ul style="list-style-type: none"> <li>Though state law would not require compliance with BA requirements, HIPAA is more stringent and must be followed.</li> </ul>	
<b>DOC: Postconviction Drug Treatment Program</b> <b>§217.785</b> <ul style="list-style-type: none"> <li>DOC shall establish a postconviction drug treatment program and shall submit reports to the applicable court outlining the performance of the inmates in the program.</li> </ul>	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>DOC may provide PHI to the court without violating HIPAA because it is required by law.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>Jails and Jailers</b>					
<b>Jails: Medical Treatment for Prisoners §221.120</b> <ul style="list-style-type: none"> <li>Jailer of a county jail must procure necessary or proper medical treatment for prisoners.</li> <li>In some cases the county commission may authorize payment for such care or employ a physician to provide such care.</li> </ul>	<b>Covered Entity §160.103</b> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul> <b>Hybrid Entity §164.504(a)</b> <ul style="list-style-type: none"> <li>A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <b>Health Care Component §164.504(b)</b> <ul style="list-style-type: none"> <li>HIPAA only applies to the health care component of a hybrid entity.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>The county jail is a health care provider to the extent it is required to provide health care to its prisoners.</li> <li>If the jail engages in covered transactions, it would be a hybrid CE under HIPAA because it would have covered and non-covered functions.</li> <li>Though the county commission may pay for some of the health care, it would not be considered a CE.</li> </ul>	
<b>Jails: Contagious Disease of County Prisoners §221.130</b>	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose</li> </ul>	No	State	<ul style="list-style-type: none"> <li>To the extent physicians are required to report to</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Conflict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>When a physician employed by the county commission determines that a prisoner has a contagious disease, the physician shall notify the commission, which may then order the sheriff or marshal to place the prisoner in another location until infectious risk is gone.</li> </ul>	PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.			the commission, they may do so without violating HIPAA because it is required by state law. <ul style="list-style-type: none"> <li>To the extent the commission is permitted to disclose PHI to the sheriff or marshal for the purpose of relocating the infectious prisoner, it is not a CE and may do so without violating HIPAA.</li> </ul>	
<b>Jails: Use of Jails in Other Counties</b> <b>§221.230</b> <ul style="list-style-type: none"> <li>A county jail that is insufficient to commit a county prisoner in its custody may send the prisoner to the nearest jail of another county.</li> <li>The other county is then responsible for safekeeping the prisoner.</li> </ul>	<b>Business Associate §160.103</b> <ul style="list-style-type: none"> <li>Definition of business associate includes entities that perform a function or activity on behalf of a covered entity involving the use or disclosure of individually identifiable health information.</li> </ul>	No	State	If the county jail is a CE, it may delegate its function as a jail, including its covered function as a health care provider, without violating HIPAA as long as it follows the more stringent HIPAA requirements regarding BAs.	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>LABOR AND INDUSTRIAL RELATIONS</b>					
<b>Worker's Compensation Law</b>					
<b>Workers' Compensation</b> <b>§§287.140; 287.210;</b> <b>287.240; 287.350; 287.380;</b> <b>287.420; 287.460; 287.560;</b> <b>287.894; 287.937</b> <b>8 CSR 20-3.010, et seq.</b> <b>8 CSR 50-5.010, et seq.</b> <ul style="list-style-type: none"> <li>Provide for use and disclosure of medical information for workers' compensation purposes.</li> </ul>	<b>Workers' Compensation</b> <b>§164.512(l)</b> <ul style="list-style-type: none"> <li>CE may disclose PHI in accordance with workers' compensation laws.</li> </ul> <b>As Required by Law</b> <b>§164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI in connection with a workers' compensation claim under Chapter 287, RSMo without violating HIPAA because such disclosure is permitted under HIPAA.</li> </ul>	
<b>Health and Safety of Employees</b>					
<b>Reporting of Occupational Diseases</b> <b>§§292.340 and 292.350</b> <b>§292.340</b> <ul style="list-style-type: none"> <li>Any physician who performs an examination of an employee pursuant to §292.330, RSMo shall report occupational</li> </ul>	<b>Preemption Exception</b> <b>§160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child</li> </ul>	No	State	<ul style="list-style-type: none"> <li>Physicians may report occupational diseases to DHSS without violating HIPAA because such reports are exempted from preemption and their disclosure is</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>diseases to DHSS.</p> <p><b>§292.350</b></p> <ul style="list-style-type: none"> <li>DHSS then is required to report back to the employer.</li> </ul>	<p>abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</p> <p><b>As Required by Law</b> <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <p><b>Public Health Activities</b> <b>§164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>			<p>required by law and is a permissible public health activity.</p> <ul style="list-style-type: none"> <li>DHSS may report back to the employer without violating HIPAA because it is required by law.</li> </ul>	
<b>MOTOR VEHICLES, WATERCRAFT AND AVIATION</b>					
<b>Drivers' and Commercial Drivers' Licenses</b>					
<b>Chemical Tests: Implied Consent of Commercial</b>	<b>As Required by Law</b> <b>§164.512(a)</b>	No	State	<ul style="list-style-type: none"> <li>Though the authorization of the</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>Drivers</b> <b>§302.745</b> <ul style="list-style-type: none"> <li>Any person who drives a commercial motor vehicle within the state is deemed to have consented to chemical tests of breath, blood, saliva or urine to determine the level or presence of alcohol or controlled substances in his or her system.</li> <li>Tests may be administered at the direction of a law enforcement officer who has reason to believe that the driver was driving with alcohol or controlled substances in his or her system.</li> <li>NOTE: The statute does not expressly permit a CE to give the results of chemical tests or the blood specimen to the law enforcement officer. However, it seems to be implied in the statute as</li> </ul>	<ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>			<p>law enforcement officer to request the results of the tests or the blood specimen itself is implied in the law, it is nevertheless a requirement of the law.</p> <ul style="list-style-type: none"> <li>Thus, a CE may disclose, without violating HIPAA, the results of the chemical tests or the blood specimen to the law enforcement officer requesting the test.</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>well as in <i>State v. Copeland</i>, 680 S.W.2d 327, 330 (Mo.App., S.D. 1984), a case involving a similar statute related to operating a motor vehicle while under the influence of alcohol or drugs.</p> <ul style="list-style-type: none"> <li>Also, §302.520, RSMo indicates the procedure to be followed when the results of the chemical tests are available to the officer while the arrested person is still in custody. This presupposes the fact that the officer has access to the test results.</li> </ul>					
<b>Watercraft Regulation and Licensing-State Water Patrol</b>					
<p><b>Chemical Tests: Operating Watercraft or Waterborne Devices Under the Influence</b>  <b>§§306.114 and 306.116</b></p> <ul style="list-style-type: none"> <li>Allows chemical tests of a person's breath, blood, or saliva to determine the alcohol content of the blood at the direction of a</li> </ul>	<p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>Though the authorization of the law enforcement officer to request the results of the tests or the blood specimen itself is implied in the law, it is nevertheless a requirement of the</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>law enforcement officer.</p> <ul style="list-style-type: none"> <li>NOTE: The statute does not expressly permit a CE to give the results of chemical tests or the blood specimen to the law enforcement officer. However, it seems to be implied in the statute as well as in <i>State v. Copeland</i>, 680 S.W.2d 327, 330 (Mo.App., S.D. 1984), a case involving a similar statute related to operating a motor vehicle while under the influence of alcohol or drugs.</li> <li>Also, §302.520, RSMo indicates the procedure to be followed when the results of the chemical tests are available to the officer while the arrested person is still in custody. This presupposes the fact that the officer has access to the test results.</li> </ul>				<p>law.</p> <ul style="list-style-type: none"> <li>Thus, a CE may disclose, without violating HIPAA, the results of the chemical tests or the blood specimen to the law enforcement officer requesting the test.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>OCCUPATIONS AND PROFESSIONS</b>					
<b>Occupations and Professions General Provisions</b>					
<b>Licensure: Clinical Perfusionists</b> <b>§§324.165 and 334.127</b> <b>20 CSR 2150-8.130</b> <ul style="list-style-type: none"> <li>• <b>§324.165 and 20 CSR 2150-8.130</b> Authorizes investigation by the Board of Registration for the Healing Arts of complaints relating to licensure violations of clinical perfusionists.</li> <li>• <b>§334.127</b> The State Board of Registration for the Healing Arts may investigate, issue subpoenas and require production of documents.</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>• CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>• As part of a state licensing investigation, licensees may disclose PHI to the Board of Registration for the Healing Arts without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	
<b>Licensure: Dieticians</b> <b>§324.217</b> <b>20 CSR 2115-1.030</b> <ul style="list-style-type: none"> <li>• The Division of Professional Registration in coordination with the</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>• CEs may disclose PHI to health oversight agencies for oversight activities authorized by law,</li> </ul>	No	State	<ul style="list-style-type: none"> <li>• Though the State Committee of Dieticians is not expressly given the authority to investigate the</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
State Committee of Dieticians may pursue a complaint against a licensed dietician in the administrative hearing commission.	including audits, investigations, inspections, licensure etc.			<p>records of the licensed dieticians, it is implied from the fact that they may pursue a complaint against the dieticians.</p> <ul style="list-style-type: none"> <li>As part of a licensure investigation, licensees may disclose PHI to the Division of Professional Registration or the State Committee of Dieticians without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	
<b>Licensure: Massage Therapists</b> <b>§§324.250 and 324.255</b> <b>20 CSR 2197-6.020</b>  <b>§324.250</b> <ul style="list-style-type: none"> <li>Requires a survey inspection for the</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations,</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a licensure investigation, licensees may disclose PHI to the Division of Professional Registration or</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>renewal of a business license for massage therapy.</p> <p><b>§324.255</b></p> <ul style="list-style-type: none"> <li>• Authorizes other survey inspections during normal business hours.</li> </ul> <p><b>20 CSR 2197-6.020</b></p> <ul style="list-style-type: none"> <li>• Authorizes the Division of Professional Registration/Board of Therapeutic Massage to investigate licensure complaints.</li> </ul>	<p>inspections, licensure etc.</p> <p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>• CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>			<p>Board of Therapeutic Massage without violating HIPAA because it is a permissible health oversight activity.</p>	
<p><b>Licensure: Acupuncturists §§324.481 and 324.499</b></p> <p><b>20 CSR 2015-1.010</b></p> <p><b>§324.481</b></p> <ul style="list-style-type: none"> <li>• The State Board of Chiropractic Examiners has the authority to issue subpoenas to compel witnesses to testify or produce evidence in proceedings to deny, suspend or revoke</li> </ul>	<p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>• CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>• As part of a licensure investigation, licensees may disclose PHI to the Division of Professional Registration, the State Board of Chiropractic Examiners and the Missouri Acupuncturist</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>licensure.</p> <p><b>§324.499 and 20 CSR 2015-1.010</b></p> <ul style="list-style-type: none"> <li>The Division of Professional Registration, the State Board of Chiropractic Examiners and the Missouri Acupuncturist Advisory Committee have the authority to investigate alleged licensure violations.</li> </ul>				<p>Advisory Committee without violating HIPAA because it is a permissible health oversight activity.</p>	
<b>Podiatrists</b>					
<p><b>Licensure: Podiatrists §330.190</b></p> <p><b>20 CSR 2230-2.041</b></p> <ul style="list-style-type: none"> <li>Authorizes the Board of Podiatric Medicine to investigate complaints against podiatrists.</li> </ul>	<p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a licensure investigation, licensees may disclose PHI to the Board of Podiatric Medicine without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	
<b>Chiropractors</b>					
<p><b>Licensure: Chiropractors §331.060</b></p> <p><b>20 CSR 2070-2.065</b></p>	<p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a licensure investigation,</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>The Missouri State Board of Chiropractic Examiners may investigate complaints and pursue them with the Administrative Hearing Commission.</li> </ul>	health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.			licensees may disclose PHI to the Missouri State Board of Chiropractic Examiners without violating HIPAA because it is a permissible health oversight activity.	
<b>Dentists</b>					
<b>Licensure: Dentists, Dental Assistants and Dental Hygienists</b> <b>§332.051</b> <b>20 CSR 2110-2.200 and 20 CSR 2110-2.210</b>  <b>§332.051 and 20 CSR 2110-2.200</b> <ul style="list-style-type: none"> <li>Dental Board has the authority to investigate complaints against its licensees.</li> </ul> <b>20 CSR 2110-2.210</b> <ul style="list-style-type: none"> <li>Requires dentists to report to the Dental Board any mortality or incident requiring</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul> <b>Preemption Exception §160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a licensure investigation, licensees may disclose PHI to the Dental Board without violating HIPAA because it is a permissible health oversight activity.</li> <li>Licensed dentists may disclose PHI to the Dental Board as part of this mandatory reporting requirement because such reports are exempted from preemption and their</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
hospitalization of a patient caused by or occurring during the administration of various forms of anesthesia or sedatives.	<p>abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</p> <p><b>As Required by Law</b>  <b>§164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <p><b>Public Health Activities</b>  <b>§164.512(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>			disclosure is required by law and is a permissible public health activity.	
<b>Physicians and Surgeons-Therapists-Athletic Trainers-Health Care Providers</b>					
<b>Licensure: Physicians, Surgeons and Midwives</b>	<b>Health Oversight Activities</b> <b>§164.512(d)</b>	No	State	<ul style="list-style-type: none"> <li>As part of a state licensing</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p><b>§§334.021, 334.260, 334.127 and 334.100</b></p> <p><b>§334.021</b></p> <ul style="list-style-type: none"> <li>• The State Board of Registration for the Healing Arts licenses physicians and surgeons.</li> </ul> <p><b>§334.260</b></p> <ul style="list-style-type: none"> <li>• Midwives licensed on August 29, 1959 are subject to the authority of the State Board of Registration for the Healing Arts.</li> </ul> <p><b>§334.127</b></p> <ul style="list-style-type: none"> <li>• The State Board of Registration for the Healing Arts may investigate, issue subpoenas and require production of documents.</li> </ul> <p><b>§334.100</b></p> <ul style="list-style-type: none"> <li>• In any investigation, hearing or other proceeding to determine the fitness of a licensee</li> </ul>	<ul style="list-style-type: none"> <li>• CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul> <p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>• CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>			<p>investigation, licensees may disclose patient information to the Board of Registration for the Healing Arts, even if it is otherwise privileged under state law, without violating HIPAA because it is a permissible health oversight activity.</p> <ul style="list-style-type: none"> <li>• In any investigation, hearing or proceeding to determine the fitness of a licensee or applicant to practice, CEs must disclose requested PHI to the Board of Registration for the Healing Arts during an investigation of a licensee or applicant because this provision of Missouri law</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
or applicant to practice, patient records are discoverable and admissible into evidence, regardless of any statutory or common law privilege.				overrides state statutory and common law privileges.	
<b>Reporting of Intoxication to Law Enforcement §334.265</b> <ul style="list-style-type: none"> <li>Any physician who treats a person who appears intoxicated for injuries sustained in a motor vehicle accident may immediately report it to the highway patrol/local law enforcement agency.</li> </ul>	<b>Preemption Exception §160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report intoxicated persons pursuant to state law, including PHI, without violating HIPAA because such reports are exempted from preemption.</li> </ul>	
<b>Licensure: Physical Therapists and Physical Therapist Assistants §§334.520, 334.127 and 334.100</b>  <b>§334.520</b>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits,</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a state licensing investigation, licensees may disclose PHI to the Board of Registration for the</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>The Board of Registration for the Healing Arts is responsible for licensing physical therapists and physical therapist assistants.</li> </ul> <p><b>§334.127</b></p> <ul style="list-style-type: none"> <li>The Board has authority to investigate, issue subpoenas and require production of documents.</li> </ul> <p><b>§334.100</b></p> <ul style="list-style-type: none"> <li>Records relating to such investigation are discoverable and admissible into evidence, regardless of any statutory or common law privilege.</li> </ul>	<p>investigations, inspections, licensure etc.</p> <p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>			<p>Healing Arts without violating HIPAA because it is a permissible health oversight activity.</p> <ul style="list-style-type: none"> <li>In any investigation, hearing or proceeding to determine the fitness of a licensee or applicant to practice, CEs must disclose requested PHI to the Board of Registration for the Healing Arts during an investigation of a licensee or applicant because this provision of Missouri law overrides state statutory and common law privileges.</li> </ul>	
<p><b>Licensure: Athletic Trainers</b>  <b>§§334.706, 334.127 and 334.100</b></p>	<p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a state licensing investigation, licensees may</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p><b>§334.706</b></p> <ul style="list-style-type: none"> <li>The Board of Registration for the Healing Arts, which is responsible for registering athletic trainers, may issue subpoenas to compel witnesses to testify or produce evidence in proceedings relating to an athletic trainer's registration.</li> </ul> <p><b>§334.127</b></p> <ul style="list-style-type: none"> <li>The Board generally has authority to investigate, issue subpoenas and require production of documents.</li> </ul> <p><b>§334.100</b> Records relating to such investigation are discoverable and admissible into evidence, regardless of any statutory or common law privilege.</p>	<p>for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</p> <p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>			<p>disclose PHI to the Board of Registration for the Healing Arts, even if it is otherwise privileged under state law, without violating HIPAA because it is a permissible health oversight activity.</p> <ul style="list-style-type: none"> <li>In any investigation/hearing/proceeding to determine the fitness of a licensee or applicant to practice, CEs must disclose requested PHI to the Board of Registration for the Healing Arts during an investigation of a licensee or applicant because this provision of Missouri law overrides state statutory and common law privileges.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p><b>Licensure: Physician Assistants</b>  <b>§§334.735, 334.127 and 334.100</b></p> <p><b>§334.735</b></p> <ul style="list-style-type: none"> <li>• The Board of Registration for the Healing Arts is responsible for licensing physician assistants.</li> </ul> <p><b>§334.127</b></p> <ul style="list-style-type: none"> <li>• The Board has authority to investigate, issue subpoenas and require production of documents.</li> </ul> <p><b>§334.100</b></p> <ul style="list-style-type: none"> <li>• Records relating to such investigation are discoverable and admissible into evidence, regardless of any statutory or common law privilege.</li> </ul>	<p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>• CE may disclose PHI to public health oversight agency for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul> <p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>• CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>• As part of a state licensing investigation, licensees may disclose PHI to the Board of Registration for the Healing Arts without violating HIPAA because it is a permissible health oversight activity.</li> <li>• In any investigation, hearing or proceeding to determine the fitness of a licensee or applicant to practice, CEs must disclose requested PHI to the Board of Registration for the Healing Arts during an investigation of a licensee or applicant because this provision of Missouri law overrides state statutory and</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
				common law privileges.	
<b>Licensure: Respiratory Care Therapists §334.910</b> <ul style="list-style-type: none"> <li>The Missouri Board for Respiratory Care within the Division of Professional Registration shall investigate all licensure complaints related to respiratory care therapists and is authorized to issue subpoenas to obtain records and information.</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul> <b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a licensure investigation, licensees may disclose PHI to the Division of Professional Registration or the Missouri Board of Respiratory Care without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	
<b>Nurses</b>					
<b>Licensure: Nurses §335.097</b> <ul style="list-style-type: none"> <li>The Board of Nursing may investigate licensing violations and issue subpoenas to obtain</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law,</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a licensure investigation, licensees may disclose privileged information to the</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
documents and records. • Such subpoenas may be enforced in circuit court.	including audits, investigations, inspections, licensure etc.			Board of Nursing without violating HIPAA because it is a permissible health oversight activity.	
<b>Optometrists</b>					
<b>Licensure: Optometrists §336.150</b> <b>20 CSR 2210-2.040</b> • The State Board of Optometry may investigate licensure complaints against optometrists.	<b>Health Oversight Activities §164.512(d)</b> • CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.	No	State	• As part of a licensure investigation, licensees may disclose PHI to the State Board of Optometry without violating HIPAA because it is a permissible health oversight activity.	
<b>Psychologists-Professional Counselors-Social Workers</b>					
<b>Licensure: Psychologists § 337.065</b> <b>20 CSR 2235-4.030</b> • State Committee of Psychologists may investigate licensure violations.	<b>Health Oversight Activities §164.512(d)</b> • CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.	No	State	• As part of a licensure investigation, licensees may disclose PHI to the State Committee of Psychologists without violating HIPAA because it is a permissible health oversight activity.	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>Licensure: Professional Counselors</b> <b>§337.520</b> <ul style="list-style-type: none"> <li>The Division of Professional Registration within the Department of Economic Development may establish procedures for investigating licensure violations.</li> </ul> <b>20 CSR 2095-1.050</b> <ul style="list-style-type: none"> <li>Investigation of complaints.</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a licensure investigation, licensees may disclose PHI to the Division of Professional Registration without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	
<b>Licensure: Social Workers</b> <b>§337.627</b> <b>20 CSR 2263-1.025</b> <ul style="list-style-type: none"> <li>The regulation creates a process for the State Committee for Social Workers to receive licensure complaints. The regulation is not clear as to the Committee's investigatory powers but the Committee is given the authority to investigate in §337.627,</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a licensure investigation, licensees may disclose PHI to the State Committee for Social Workers without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
RSMo. The Committee may also file a complaint with the administrative hearing commission under §337.630, RSMo.					
<b>Licensure: Marital and Family Therapists §337.727</b> <b>20 CSR 2233-1.030</b> <ul style="list-style-type: none"> <li>The regulation creates a process for the Division of Professional Registration to receive licensure complaints in coordination with the State Committee of Marital and Family Therapists. The regulation is not clear as to the Committee's investigatory powers but the Division is given the authority to investigate in §337.727, RSMo and may file a complaint with the administrative hearing commission under §337.730, RSMo.</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a licensure investigation, licensees may disclose PHI to the Division of Professional Registration or the State Committee of Marital and Family Therapists without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>Pharmacists and Pharmacies</b>					
<b>Licensure: Pharmacists and Pharmacy Technicians</b> <b>§§338.013, 338.020, 338.095, 338.100, 338.140, 338.150 and 338.314</b>  <b>§338.095</b> <ul style="list-style-type: none"> <li>Defines prescription drug order and telephone prescription.</li> </ul>	<b>TPO §164.506</b> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <b>Notice of Privacy Practices §164.520(c)</b> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Because disclosure for treatment purposes under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</li> <li>Thus, CEs may disclose patient information for the purpose of calling in a prescription for a patient only if they comply with the more stringent requirements for the HIPAA NPP acknowledgment.</li> <li>Consent under state</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p><b>§338.013</b></p> <ul style="list-style-type: none"> <li>Pharmacy Technicians must be registered by the Board of Pharmacy.</li> </ul> <p><b>§338.020</b></p> <ul style="list-style-type: none"> <li>Pharmacists must be licensed by the Board of Pharmacy.</li> </ul> <p><b>§338.100</b></p> <ul style="list-style-type: none"> <li>Requires that records maintained by a pharmacy be considered confidential but the Board shall have access to prescriptions and other confidential records.</li> </ul> <p><b>§338.140</b></p> <ul style="list-style-type: none"> <li>Allows the Board of Pharmacy to prosecute licensure violations.</li> </ul>	<p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul> <p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<p>law is implied based on the patient's request for the provider to call in the prescription to the pharmacy.</p> <ul style="list-style-type: none"> <li>As part of a licensure investigation, licensees may disclose PHI to the Board of Pharmacy without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>§§338.150 and 338.314</b> <ul style="list-style-type: none"> <li>Allows the Board or a person authorized by the Board to inspect pharmacies including pharmacies inside long-term care facilities.</li> </ul>					
<b>Nursing Home Administrators</b>					
<b>Licensure: Nursing Home Administrators</b> <b>§344.070</b> <b>19 CSR 73-1.010 and 19 CSR 73-2.085</b> <ul style="list-style-type: none"> <li>The Board of Nursing Home Administrators may investigate licensure complaints.</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a licensure investigation, licensees may disclose PHI to the Board of Nursing Home Administrators without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	
<b>Speech Pathologists and Audiologists</b>					
<b>Licensure: Speech Pathologists and Audiologists</b> <b>§§345.030, 345.080, 334.127 and 334.100</b> <b>20 CSR 2150-4.090</b> <b>§345.030 and 345.080</b>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations,</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a state licensing investigation, licensees may disclose PHI to the Board of Registration for the Healing Arts without</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>The State Board of Registration for the Healing Arts and the Advisory Commission for Speech-Language Pathologists and Audiologists may investigate licensure complaints.</li> </ul> <p><b>§334.127</b></p> <ul style="list-style-type: none"> <li>The State Board of Registration for the Healing Arts may investigate, issue subpoenas and require production of documents.</li> </ul> <p><b>§334.100</b></p> <ul style="list-style-type: none"> <li>Records relating to such investigation are discoverable and admissible into evidence, regardless of any statutory or common law privilege.</li> </ul> <p><b>20 CSR 2150-4.090</b></p> <ul style="list-style-type: none"> <li>Investigation of licensure complaints</li> </ul>	<p>inspections, licensure etc.</p>			<p>violating HIPAA because it is a permissible health oversight activity.</p> <ul style="list-style-type: none"> <li>In any investigation, hearing or proceeding to determine the fitness of a licensee or applicant to practice, CEs must disclose requested PHI to the Board of Registration for the Healing Arts during an investigation of a licensee or applicant because this provision of Missouri law overrides state statutory and common law privileges.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>Hearing Aid Fitters and Dealers</b>					
<b>Licensure: Hearing Aid Fitters and Dealers</b> <b>§346.125</b> <b>20 CSR 2165-2.070</b> <ul style="list-style-type: none"> <li>Missouri Board of Examiners for Hearing Instrument Specialists may investigate licensure complaints.</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a licensure investigation, licensees may disclose PHI to the Missouri Board of Examiners for Hearing Instrument Specialists without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	
<b>CORPORATIONS, ASSOCIATIONS AND PARTNERSHIPS</b>					
<b>Health Services Corporations-Health Maintenance Organizations</b>					
<b>Licensure: Health Services Corporations</b> <b>§§354.190, 354.285 and 354.355</b> <b>§354.190</b> <ul style="list-style-type: none"> <li>The Director of the Department of Insurance has authority to investigate violations of law pertaining to health services corporations and compel production of</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul> <b>Business Associate §160.103</b> <ul style="list-style-type: none"> <li>The definition of business</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of a licensing investigation under Chapter 354, RSMo, licensees and the companies that manage them may disclose PHI to the Department of Insurance without violating HIPAA because it is a permissible health</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>records, books, papers, contracts and other documents.</p> <p><b>§§354.285 and 354.355</b></p> <ul style="list-style-type: none"> <li>The Director has same authority to review records of companies that manage health services corporations and bring suit against such corporations based on such review.</li> </ul>	<p>associate includes entities that perform a function or activity on behalf of a covered entity involving the use or disclosure of individually identifiable health information.</p> <p><b>Content of BA contract §164.504(e)(2)(i)(H)</b></p> <ul style="list-style-type: none"> <li>The BA contract must require the BA to make its records related to a CE available to the Secretary of DHHS to determine the CE's compliance under HIPAA.</li> </ul>			<p>oversight activity.</p> <ul style="list-style-type: none"> <li>Companies that manage health services corporations must sign BA agreements.</li> <li>Though such agreements must require access by the Secretary, they do not conflict with a state law that provides access by the Department of Insurance.</li> </ul>	
<p><b>Licensure: Health Maintenance Organizations §§354.465, 354.500 and 354.621</b></p> <ul style="list-style-type: none"> <li>Director of the Department of Insurance may examine the records of HMOs, arrange meetings with potential violators to ascertain facts relating to the</li> </ul>	<p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul> <p><b>Business Associate §160.103</b></p>	No	State	<ul style="list-style-type: none"> <li>As part of a licensing investigation under Chapter 354, RSMo, licensees may disclose PHI to the Department of Insurance without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>suspected violation and examine records of intermediaries of HMOs.</p>	<ul style="list-style-type: none"> <li>The definition of business associate includes entities that perform a function or activity on behalf of a covered entity involving the use or disclosure of individually identifiable health information.</li> </ul> <p><b>Content of BA contract §164.504(e)(2)(i)(H)</b></p> <ul style="list-style-type: none"> <li>The BA contract must require the BA to make its records related to a CE available to the Secretary of DHHS to determine the CE's compliance under HIPAA.</li> </ul>			<ul style="list-style-type: none"> <li>Intermediaries who are acting as agents of HMOs in transferring enrollee information for payment purposes must sign BA agreements.</li> <li>Though such agreements must require access by the Secretary, they do not conflict with a state law that provides access by the Department of Insurance.</li> </ul>	
<p><b>Prepaid Dental Plans §354.717</b></p> <ul style="list-style-type: none"> <li>The Director of the Department of Insurance or his representative has the authority to examine records of prepaid dental plans whenever he deems it necessary.</li> </ul>	<p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As part of an examination under Chapter 354, RSMo, CEs may disclose PHI to the Department of Insurance without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>Uniform Limited Partnership Law</b>					
<b>Limited Partnerships §359.681</b> <ul style="list-style-type: none"> <li>The Secretary of State has the authority to examine books and records of limited partnerships and it is a class B misdemeanor to refuse to produce the records.</li> </ul>	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>To the extent CEs may be considered limited partnerships, they may disclose PHI to the Secretary of State as part of an examination under Chapter 359, RSMo, CEs without violating HIPAA because it is required by law.</li> </ul>	
<b>BUSINESS AND FINANCIAL INSTITUTIONS</b>					
<b>Department of Insurance; Provisions Applicable to All Insurance Companies</b>					
<b>Insurance Companies §§374.190, 374.194 374.205, 375.037, 375.149, 375.164, 375.231, 375.775, 375.937, 375.938, 375.940, 375.991, 375.992, 375.994, 375.1009, 375.1010, 375.1050, 375.1100, 375.1132, 375.1156 and 375.1172</b> <ul style="list-style-type: none"> <li>The Director of the Department of Insurance has the authority, under various circumstances, to examine, directly or</li> </ul>	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to</li> </ul>	No	State	<ul style="list-style-type: none"> <li>To the extent insurance companies are CEs, they may disclose PHI to the Department of Insurance as part of an examination under Chapter 374, RSMo without violating HIPAA because it is required by law and might be considered a permissible health</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
indirectly, the books, records and other documents of companies in the business of insurance and in many instances may issue subpoenas and compel production of records.	health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.			oversight activity.	
<b>Genetic Information: Confidentiality and Disclosure §375.1309</b> <ul style="list-style-type: none"> <li>Genetic information is deemed confidential and may not be disclosed unless pursuant to written authorization of the patient.</li> </ul>	<b>Authorizations §164.508</b> <ul style="list-style-type: none"> <li>Except as otherwise permitted under HIPAA, a CE may not use or disclose PHI without an authorization.</li> <li>The content of such authorization must comply with HIPAA standards.</li> </ul>	Yes and No	State and HIPAA (depends on the situation)	<u>Confidentiality</u> <ul style="list-style-type: none"> <li>Regarding the general provision of confidentiality of genetic information, an authorization under HIPAA is more stringent than the requirements for a state law authorization.</li> <li>If HIPAA would require an authorization for a particular disclosure, the authorization must follow HIPAA requirements and state law is preempted.</li> <li>If HIPAA would not</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Conflict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>Exceptions to the authorization requirement are</li> </ul> <ol style="list-style-type: none"> <li>Statistical data compiled without reference to the identity of an individual.</li> <li>Health research in accordance with the federal “common rule” or health</li> </ol>	<p><b>De-identification of PHI §164.514</b></p> <ul style="list-style-type: none"> <li>Lists all elements of PHI that must be eliminated in order to de-identify the PHI.</li> </ul> <p><b>Research §164.512(i)</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for research purposes</li> </ul>	<p>Yes</p> <p>Yes and No</p>	<p>HIPAA</p> <p>State and HIPAA</p>	<p>require an authorization, such as for TPO, the state authorization would still be required but it would not have to comply with the authorization content requirements under HIPAA.</p> <p><u>Exceptions</u></p> <ul style="list-style-type: none"> <li>Absent a HIPAA-compliant authorization, statistical data may not be disclosed under HIPAA unless it is de-identified or is otherwise permitted under HIPAA.</li> <li>The state law research exception has two components: Research in</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
research using medical archives or databases in which identity is removed or encrypted.	<p>if meet certain requirements.</p> <p><b>De-identification of PHI §164.514</b></p> <ul style="list-style-type: none"> <li>• Lists all elements of PHI that must be eliminated in order to de-identify the PHI.</li> </ul>			<p>accordance with the federal “common rule” and research using archives or databases. In either event, research permitted under state law would require compliance under HIPAA research provisions or de-identification of data.</p> <ul style="list-style-type: none"> <li>• Because the research requirements under state law and HIPAA are difficult to integrate, CEs should ensure that they meet the research requirements of both state law and HIPAA.</li> </ul>	
3. Release of information pursuant to legal or regulatory process.	<p><b>Judicial and Administrative Proceedings §164.512(e)(1)(i)</b></p> <ul style="list-style-type: none"> <li>• CEs may disclose PHI in the course of any judicial</li> </ul>	Yes	State	<ul style="list-style-type: none"> <li>• In order to release PHI pursuant to Missouri legal and regulatory process, a court or</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery request or other lawful process.			<p>administrative order is generally required. See <i>Ingram v. Mutual of Omaha</i>, 170 F.Supp.2d 907 (W.D.Mo. 2001) (Health care centers, hospitals and insurers must assert the fiduciary duty of confidentiality on behalf of the patient, even if PHI is requested by subpoena).</p> <ul style="list-style-type: none"> <li>• Because state law requires a court or administrative order for disclosure pursuant to legal process, it is more stringent than HIPAA provisions regarding legal process.</li> <li>• Thus, CEs may only disclose genetic information without an authorization under this Missouri</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
4. Release of information for body identification.	<b>Coroners and Medical Examiners</b> <b>§164.512(g)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to the coroner or medical examiner for purposes of identifying the deceased and the cause of death.</li> <li>CEs may use PHI for the same purposes if they are acting as the coroner or medical examiner in a given situation.</li> </ul>	No	State	statutory exception if there is a court or administrative order.  <ul style="list-style-type: none"> <li>CEs may disclose genetic information to the coroner and medical examiner or may use the information themselves for purposes of identification of the body.</li> </ul>	
<b>Life, Health and Accident Insurance</b>					
<b>Health Carrier Utilization Review</b> <b>§376.1356</b> <ul style="list-style-type: none"> <li>As part of the duty to have procedures for utilization review, health carriers may delegate such duty to utilization organizations if they maintain adequate oversight, including</li> </ul>	<b>TPO</b> <b>§164.506</b> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <b>Business Associate</b> <b>§160.103</b> <ul style="list-style-type: none"> <li>The definition of business associate includes entities</li> </ul>	Yes	State and HIPAA	<ul style="list-style-type: none"> <li>Utilization review is part of the health care operations of the health carrier and is thus permissible under HIPAA.</li> <li>The state law and HIPAA requirements for delegation of the utilization review</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
maintaining a written description of the organization's activities and responsibilities, evidence of formal approval of the organization's program by the health carrier and a process for evaluating the organization's performance.	that perform a function or activity on behalf of a covered entity involving the use or disclosure of individually identifiable health information.  <b>BA Contracts</b> <b>§164.504(e)</b> <ul style="list-style-type: none"><li>Lists the required content of business associate contracts and arrangements.</li></ul>			function are very different and are not easily integrated. Thus, health carriers should comply with both state law and HIPAA.	
<b>TRADE AND COMMERCE</b>					
<b>Transfers to Minors-Personal Custodian and Durable Power of Attorney</b>					
<b>Durable Power of Attorney for Health Care</b> <b>§404.840</b> <ul style="list-style-type: none"><li>An attorney-in-fact designated in a durable power of attorney for health care has the same right of access as the patient to the patient's medical records.</li></ul>	<b>Personal Representatives: Adults and Emancipated Minors</b> <b>§164.5502(g)(2)</b> <ul style="list-style-type: none"><li>CEs may disclose PHI to a person who has authority to act on behalf of an adult or emancipated minor in making decisions related to health care.</li></ul>	No	State	<ul style="list-style-type: none"><li>CEs may disclose PHI to attorneys-in-fact under state law without violating HIPAA because such individuals are considered personal representatives under HIPAA.</li></ul>	
<b>DEBTOR-CREDITOR RELATIONS</b>					
<b>Statutory Liens Against Personalty-Preferred Claims</b>					
<b>Hospital Liens: Notice</b> <b>§430.240</b>	<b>As Required by Law</b> <b>§164.512(a)</b>	Yes	State	<ul style="list-style-type: none"><li>State law requires consent of the</li></ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>For a lien to be effective, the hospital must provide to the party alleged to be liable a notice containing certain PHI.</li> </ul>	<ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>			<ul style="list-style-type: none"> <li>patient to disclose privileged patient information for purposes of payment.</li> <li>Once the patient consents under state law to disclosure of PHI for payment purposes, CEs may disclose PHI for payment purposes under the hospital lien statute without violating HIPAA because such disclosure is required by law.</li> </ul>	
<b>CONTRACTS AND CONTRACTUAL RELATIONS</b>					
<b>General Provisions as to Contracts</b>					
<b>Minors' Medical Records §§431.061 and 431.062</b>  <b>§431.061</b> <ul style="list-style-type: none"> <li>Minors generally may not consent to medical treatment for themselves without further consent from a parent, guardian</li> </ul>	<b>Personal Representatives: Unemancipated Minors §164.502(g)(3)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to an individual's parent, guardian or person acting <i>in loco parentis</i> who has authority to act on behalf of an unemancipated</li> </ul>	No	State and HIPAA (depending on situation)	<ul style="list-style-type: none"> <li>To the extent minors are authorized under state law to consent to medical treatment on their own behalf, CEs are generally prohibited under HIPAA from disclosing their</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>or person acting <i>in loco parentis</i> EXCEPT minors may consent on their own behalf for treatment for pregnancy, venereal disease and substance abuse or for any purpose if they have been lawfully married or are a parent or legal custodian of a child.</p> <p><b>§431.062</b></p> <ul style="list-style-type: none"> <li>A physician or surgeon may disclose, without the minor's consent, the minor's PHI pertaining to examination or treatment obtained for pregnancy, venereal disease or substance abuse unless the minor is determined not to be pregnant or suffering from venereal disease or substance abuse.</li> </ul>	<p>minor in making decisions related to health care.</p> <ul style="list-style-type: none"> <li>EXCEPTION: The parent, guardian or person acting <i>in loco parentis</i> is not the personal representative of an unemancipated minor and may not access the minor's PHI if the minor consents to a particular health care service, no other consent is required by law AND the minor does not request the person be considered a personal representative.</li> </ul> <p><b>Personal Representatives: Unemancipated Minors §164.502(g)(3)(ii)</b></p> <ul style="list-style-type: none"> <li>Notwithstanding the exceptions to the personal representative rule in §164.502(g)(3)(i), a CE may disclose PHI of an unemancipated minor to the parent, guardian or person acting <i>in loco parentis</i> if it is permitted or required under state or</li> </ul>			<p>medical information to parents, guardians or persons acting <i>in loco parentis</i>.</p> <ul style="list-style-type: none"> <li>However, to the extent physicians and surgeons may disclose PHI of a minor pursuant to §431.062, RSMo they may do so without violating HIPAA because HIPAA defers to state law, which permits disclosure in this situation.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>other law.</p> <p><b>Personal Representatives: Adults and Emancipated Minors</b> §164.5502(g)(2)</p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a person who has authority to act on behalf of an adult or emancipated minor in making decisions related to health care.</li> </ul>				
<b>OWNERSHIP AND CONVEYANCE OF PROPERTY</b>					
<b>Lost and Unclaimed Property</b>					
<p><b>Abandoned Property</b> §447.539</p> <ul style="list-style-type: none"> <li>Health care providers are among those who must report abandoned property to the State Treasurer.</li> </ul>	<p><b>As Required by Law</b> §164.512(a)</p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <p><b>Preemption Exception</b> §160.203(b)</p> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state</li> </ul>	No	State	<ul style="list-style-type: none"> <li>Abandoned property includes intangible property such as money owed to a patient because of insurance overpayment. To the extent such property reveals patient information, it is PHI.</li> <li>CEs may report abandoned property to the State Treasurer without</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>laws.</p> <ul style="list-style-type: none"> <li>One exception to that rule is when the state law is more stringent <i>and</i> relates to the privacy of individually identifiable health information.</li> </ul> <p><b>Relates to the Privacy of Individually Identifiable Health Information</b> <b>§160.202</b></p> <ul style="list-style-type: none"> <li>A law relates to the privacy of individually identifiable health information if it has the specific purpose of protecting the privacy of health information or affects the privacy of health information in a direct, clear and substantial way.</li> </ul>			<p>violating HIPAA because it is required by law.</p> <ul style="list-style-type: none"> <li>Though there is no conflict between this provision of state law and HIPAA, it probably does not implicate the preemption issue because does not have the specific purpose of protecting the privacy of health information or affect the privacy of health information in a direct, clear and substantial way.</li> </ul>	
<b>DOMESTIC RELATIONS</b>					
<b>Dissolution of Marriage, Divorce, Alimony and Separate Maintenance</b>					
<p><b>Custodial and Non-custodial Parents</b> <b>§452.375.10</b></p> <ul style="list-style-type: none"> <li>Both custodial and non-custodial parents shall</li> </ul>	<p><b>Personal Representatives: Unemancipated Minors</b> <b>§164.502(g)(3)(ii)</b></p> <ul style="list-style-type: none"> <li>Notwithstanding the exceptions to the personal</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to custodial and non-custodial parents pursuant to 452.375.10, RSMo</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>have access to the PHI of their minor children unless they have been denied custody or visitation rights.</p> <ul style="list-style-type: none"> <li>However, if the non-custodial parent has restricted or supervised visitation rights due to domestic violence, the court may order PHI to be released without the address of the custodial parent.</li> </ul>	<p>representative rule in §164.502(g)(3)(i), a CE may disclose PHI of an unemancipated minor to the parent, guardian or person acting <i>in loco parentis</i> if it is permitted or required under state or other law.</p> <p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>			<p>without violating HIPAA because HIPAA defers to state law, which permits disclosure in this situation.</p>	
<p><b>Custodial Arrangements: Investigation §452.390</b></p> <ul style="list-style-type: none"> <li>A court may order an investigation and report concerning custodial arrangements for a child.</li> <li>The investigator may</li> </ul>	<p><b>As Required by Law §164.512(a); 164.512(a)(2)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is</li> </ul>	Yes and No	State and HIPAA (depends on the situation)	<ul style="list-style-type: none"> <li>The investigation under §452.390, RSMo is performed pursuant to a court order. Though the statute permits but does not require the investigator to</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
obtain medical and psychiatric information concerning the child without obtaining consent from the parent or custodian of the child but the investigator must obtain the consent of the child if the child is at least 16 years old, unless the court finds the child lacks mental capacity to consent.	<p>limited to the requirements of such law.</p> <ul style="list-style-type: none"> <li>CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f)</li> </ul> <p><b>Judicial and Administrative Proceedings</b>  <b>§164.512(e)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal.</li> </ul> <p><b>Authorizations</b>  <b>§164.508</b></p> <ul style="list-style-type: none"> <li>Except as otherwise permitted under HIPAA, a CE may not use or disclose PHI without an authorization.</li> <li>HIPAA has a list of core elements and requirements concerning the content of authorizations.</li> </ul>			<p>request access to PHI, CEs are required to disclose it upon such request.</p> <ul style="list-style-type: none"> <li>However, if the child is 16 years or older, state law requires the child to consent to disclosure of their PHI to the investigator.</li> <li>Thus, CEs may disclose PHI for purposes of such investigation without violating HIPAA if the child is not yet 16 years old because it is required by law.</li> <li>If the child is 16 years or older, the state statute requires consent but HIPAA would require an authorization and thus is more stringent. In such circumstances, CEs must follow HIPAA and may only</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
				disclose PHI if they obtain the authorization of the child who is 16 years or older.	
<b>TRUSTS AND ESTATES OF DECEDENTS AND PERSON UNDER DISABILITY</b>					
<b>Probate Code-Administration of Decedents' Estates</b>					
<b>Personal Representative of an Estate</b> <b>§§473.110, 473.113 and 473.117</b> <ul style="list-style-type: none"> <li>These statutes list individuals who may or may not be appointed as personal representatives of a deceased's estate if under various circumstances.</li> <li><i>Leritz v. Koehr</i>, 844 S.W.2d 583 (Mo.App., E.D. 1993) (personal representative of a deceased individual may waive the deceased's physician-patient privilege).</li> </ul>	<b>Personal Representatives: Deceased Individuals</b> <b>§164.502(g)(4)</b> <ul style="list-style-type: none"> <li>If an executor, administrator or other person has authority, under applicable law, to act on behalf of a deceased individual, a CE must treat that person as a personal representative under HIPAA and allow access to PHI accordingly.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may allow a personal representative of a deceased individual to waive the deceased individual's privilege and disclose PHI to such representative as permitted under state law without violating HIPAA because such person is recognized as a personal representative under HIPAA.</li> </ul>	
<b>Probate Code-Guardianship</b>					
<b>Guardians: Hearing on</b>	<b>Judicial and Administrative</b>	No	State	<ul style="list-style-type: none"> <li>Disclosure of report</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>Capacity or Disability</b> <b>§475.075</b> <ul style="list-style-type: none"> <li>Court appointed physician or licensed psychologist or other professional shall submit his report in writing to the court and counsel for all parties.</li> </ul>	<b>Proceedings</b> <b>§164.512(e)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal.</li> </ul> <b>As Required by Law</b> <b>§164.512(a); 164.512(a)(2)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> <li>CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f).</li> </ul>			is consistent with HIPAA because such report is a result of a court order.	
<b>Status Review of Guardianship</b> <b>§475.082</b> <ul style="list-style-type: none"> <li>Court may require hospital, physician, or custodial facility to</li> </ul>	<b>Judicial and Administrative Proceedings</b> <b>§164.512(e)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative</li> </ul>	No	State	<ul style="list-style-type: none"> <li>Copies of records of a ward in guardianship hearings pursuant to a court order is consistent with</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
submit copies of their records relating to the treatment, habilitation or care of the ward.	proceeding in response to an order by the court or administrative tribunal.			HIPAA.	
<b>Guardians: Powers and Duties</b> <b>§475.120</b> <ul style="list-style-type: none"> <li>Guardians of incapacitated persons shall have all powers and duties required to provide for their ward's care and treatment.</li> </ul>	<b>Personal Representatives: Unemancipated Minors</b> <b>§164.502(g)(3)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to an individual's parent, guardian or person acting <i>in loco parentis</i> who has authority to act on behalf of an unemancipated minor in making decisions related to health care.</li> </ul> <b>Personal Representatives: Adults and Emancipated Minors</b> <b>§164.5502(g)(2)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a person who has authority to act on behalf of an adult or emancipated minor in making decisions related to health care.</li> </ul> <b>As Required by Law</b> <b>§164.512(a)</b>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to guardians of incapacitated persons as permitted under state law without violating HIPAA because such guardians, whether their ward is an adult or a minor, are recognized as personal representatives under HIPAA.</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>				
<b>EVIDENCE AND LEGAL ADVERTISEMENTS</b>					
<b>Witnesses</b>					
<b>Physician-Patient Privilege §491.060.5</b> <ul style="list-style-type: none"> <li>Physician cannot testify to any information acquired from any patient while attending to patient in a professional character and which is necessary to enable physician to prescribe and provide treatment for such patient.</li> <li><i>Common Law:</i> The common law privilege is based on a fiduciary duty<sup>1</sup> of confidentiality</li> </ul>	<b>§164.508 Authorizations</b> <ul style="list-style-type: none"> <li>Except as otherwise permitted under HIPAA, a CE may not use or disclose PHI without an authorization.</li> <li>HIPAA has a list of core elements and requirements concerning the content of authorizations.</li> </ul>	Yes	State	<ul style="list-style-type: none"> <li>That statutory and common law physician-patient privilege significantly restricts the ability of such providers and entities to disclose PHI.</li> </ul>	

<sup>1</sup> *Brandt v. Medical Defense Associates*, 856 S.W. 2d 667 (Mo. Banc 1993).

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
and is applied to health care centers, hospitals and insurers. <sup>2</sup> Because the privilege is based on the patient's relationship with a physician, it extends to records. <sup>3</sup>					
<b>STATUTORY ACTIONS AND TORTS</b>					
<b>Torts and Actions for Damages</b>					
<b>Peer Review Committees §537.035</b> <ul style="list-style-type: none"> <li>Creates peer review privilege with respect to information created by peer review committees regarding the care provided to a patient.</li> </ul>	<b>§164.508 Authorizations</b> <ul style="list-style-type: none"> <li>Except as otherwise permitted under HIPAA, a CE may not use or disclose PHI without an authorization.</li> <li>HIPAA has a list of core elements and requirements concerning the content of authorizations.</li> </ul>	Yes	State	<ul style="list-style-type: none"> <li>The state peer review privilege restricts disclosure of certain information created by peer review committees, which would otherwise be a permissible disclosure with a HIPAA-compliant authorization.</li> </ul>	
<b>CRIMINAL PROCEDURE</b>					
<b>Criminal Proceedings Involving Mental Illness</b>					
<b>Mental Capacity to be Tried or Convicted §552.020</b> <ul style="list-style-type: none"> <li>Under certain</li> </ul>	<b>As Required by Law §164.512(a); 164.512(a)(2)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose reports of psychiatric examinations of</li> </ul>	

<sup>2</sup> *Ingram v. Mutual of Omaha*, 170 F. Supp. 2d 907 (W.D. Mo. 2001).

<sup>3</sup> *State v. Henderson*, 824 S.W. 2d 445 (E.D. Mo. App. 1991).

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>circumstances, the court is required to appoint a psychiatrist, psychologist or physician with appropriate expertise to examine the accused in a criminal case and such order must direct that the report of the examination be filed with the court.</p>	<p>individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</p> <ul style="list-style-type: none"> <li>CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f)</li> </ul> <p><b>Judicial and Administrative Proceedings</b>  <b>§164.512(e)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery request or other lawful process.</li> </ul>			<p>accused individuals to the court under §552.020, RSMo without violating HIPAA because such disclosure is pursuant to a court order that is required by law.</p>	
<p><b>Not Guilty by Reason of Mental Disease or Defect</b>  <b>§552.030</b></p> <ul style="list-style-type: none"> <li>Under certain</li> </ul>	<p><b>As Required by Law</b>  <b>§164.512(a); 164.512(a)(2_</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose reports of psychiatric examinations of</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>circumstances, the court is required to appoint a psychiatrist, psychologist or physician with appropriate expertise to examine the accused in a criminal case and such order must direct that the report of the examination be filed with the court.</p>	<p>individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</p> <ul style="list-style-type: none"> <li>CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f)</li> </ul> <p><b>Judicial and Administrative Proceedings</b>  <b>§164.512(e)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery request or other lawful process.</li> </ul>			<p>accused individuals to the court under §552.030, RSMo without violating HIPAA because such disclosure is pursuant to a court order that is required by law.</p>	
<p><b>Criminally Accused Individuals: Release after Commitment</b>  <b>§552.040</b></p>					

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>Under certain circumstances, the head of a facility where an individual is committed <i>may</i> file an application with the court for the release of the individual.</li> </ul>	<p><b>TPO</b> <b>§164.506</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <p><b>Notice of Privacy Practices</b> <b>§164.520(c)</b></p> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Because the disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</li> <li>Thus, CEs that are direct treatment providers may disclose PHI to the court for a determination of whether discontinuation of treatment is appropriate only if they comply with the more stringent requirements for the HIPAA NPP acknowledgment.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>If such release of the committed individual requires examination of the individual by a psychiatrist, psychologist or physician with appropriate expertise, the report of such examination must be filed with the application.</li> </ul>	<b>As Required by Law §164.512(a); 164.512(a)(2)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> <li>CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f)</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose the results of a psychiatric examination to the court as required by this statute without violating HIPAA because it is required by law.</li> </ul>	
<ul style="list-style-type: none"> <li>In some cases, notification of the prosecuting attorney or sheriff is required.</li> </ul>	<b>Law Enforcement Purposes §164.512(f)(1)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI for law enforcement purposes as required by law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to law enforcement officials such as the prosecuting attorney and sheriff under this section because it is required by law for law enforcement purposes.</li> </ul>	
<ul style="list-style-type: none"> <li>The Department of Mental Health <i>may</i> request a peace officer to apprehend and return an</li> </ul>	<b>Serious Threat to Health or Safety §164.512(j)(1)(ii)</b> <ul style="list-style-type: none"> <li>A CE may, consistent</li> </ul>	No	State	<ul style="list-style-type: none"> <li>DMH may disclose such PHI as is necessary to request the sheriff to</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
individual who has violated the terms of conditional release.	with applicable law and ethical standards, disclose PHI if the CE has a good faith belief that such disclosure is necessary for law enforcement authorities to identify or apprehend an individual where the individual has escaped from a correctional institution or other form of lawful custody as it is defined under §164.501 of HIPAA.			apprehend an individual who has violated the terms of conditional release without authorization because the individual has effectively escaped from lawful custody.	
<b>DOC: Transfer of Inmate to Mental Hospital §552.050</b> <ul style="list-style-type: none"> <li>Permits the Department of Corrections to transfer an inmate to a mental hospital if there is reason to believe the inmate needs care in a mental hospital.</li> </ul>	<b>TPO §164.506</b> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <b>Notice of Privacy Practices §164.520(c)</b> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>This section contemplates one CE (DOC) disclosing PHI to another CE (DMH or a private mental hospital) in connection with the transfer of a patient for treatment purposes.</li> <li>Because the disclosure of PHI by CEs that are direct</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	acknowledgment of receipt of the NPP			<p>treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</p> <ul style="list-style-type: none"> <li>Thus, CEs that are direct treatment providers may disclose PHI for purposes of transferring patients only if they comply with the more stringent requirements for the HIPAA NPP acknowledgment.</li> </ul>	
<b>DOC: Mental Disease or Defect of Inmate Sentenced to Death</b> <b>§552.060</b> <ul style="list-style-type: none"> <li>If the director of DOC has reason to believe an inmate sentenced to</li> </ul>	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if</li> </ul>	No	State	<ul style="list-style-type: none"> <li>As a CE, DOC may disclose PHI to the individuals listed in this provision of Missouri law without violating HIPAA because</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
death has a mental disease or defect that makes the inmate unfit for execution, the director must notify the governor, DMH, prosecuting attorney, Attorney General, and the court.	it is required by law and is limited to the requirements of such law.			such disclosure is required by law.	
<b>CRIMES AND PUNISHMENT; PEACE OFFICERS AND PUBLIC DEFENDERS</b>					
<b>General Sentencing Provisions</b>					
<b>Presentence Commitment §557.031</b> <ul style="list-style-type: none"> <li>As part of the presentencing process and investigation, the court may order the commitment of a criminal defendant for a mental examination where the court determines the defendant is likely to be suffering from a mental disease or disorder.</li> <li>The results of the examination must then be provided to the court.</li> </ul>	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose the results of a mental examination under this provision of Missouri law without violating HIPAA because such disclosure is required by law.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>Sexual Offenses</b>					
<b>Sexual Offenses</b> <b>§566.135</b> <ul style="list-style-type: none"> <li>Court may order defendant be tested for HIV, hepatitis B and C, syphilis, gonorrhea, and Chlamydia and the results shall be released to the victim, his or her parent or guardian, prosecuting attorney and defense attorney.</li> </ul>	<b>Judicial and Administrative Proceedings</b> <b>§164.512(e)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>Tests results obtained and released during a judicial proceeding pursuant to a court order consistent with HIPAA.</li> </ul>	
	<b>Public Health Activities</b> <b>§164.512(b)(1)(iv)</b> <ul style="list-style-type: none"> <li>CEs may report PHI to a person who may have been exposed to a communicable disease or may be at risk of contracting or spreading the disease if the CE is authorized by law to notify such person.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>Releasing of court ordered test results to a victim of a sex offense is consistent with HIPAA because the victim may have been exposed to a communicable disease or at risk of spreading the disease.</li> </ul>	
	<b>As Required by Law</b> <b>§164.512(a); 164.512(a)(2)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity</li> </ul>				

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</p> <ul style="list-style-type: none"> <li>CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f).</li> </ul>				
<b>Public Safety Offenses</b>					
<p><b>Chemical Tests: Operating a Motor Vehicle Under the Influence</b>  <b>§577.020</b></p> <ul style="list-style-type: none"> <li>Any person who operates a motor vehicle on the public highways of the state is deemed to have consented to chemical tests of breath, blood, saliva or urine to determine the alcohol or drug content in his or her blood.</li> <li>Tests may be administered at the direction of a law enforcement officer under certain circumstances indicating</li> </ul>	<p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>Though the authorization of the law enforcement officer to request the results of the tests or the blood specimen itself is implied in the law, it is nevertheless a requirement of the law.</li> <li>Thus, a CE may disclose, without violating HIPAA, the results of the chemical tests or the blood specimen to the law enforcement officer requesting the test.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>that the driver was driving under the influence of alcohol.</p> <ul style="list-style-type: none"> <li>NOTE: The statute does not expressly permit a CE to give the results of chemical tests or the blood specimen to the law enforcement officer. However, it seems to be implied in the statute as well as in <i>State v. Copeland</i>, 680 S.W.2d 327, 330 (Mo.App., S.D. 1984), a case related to operating a motor vehicle while under the influence of alcohol or drugs.</li> <li>Also, §302.520, RSMo indicates the procedure to be followed when the results of the chemical tests are available to the officer while the arrested person is still in custody. This presupposes the fact that the officer has access to the test results.</li> </ul>					

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>Chemical Tests: Access by the Individual Tested</b> <b>§§577.029 and 577.208</b> <ul style="list-style-type: none"> <li>Whenever a chemical test is performed at the direction of a law enforcement officer, the physician, nurse or medical technician performing the test must provide complete information concerning the test to the individual tested upon his or her request.</li> </ul>	<b>As Required by Law</b> <b>§164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <b>Access of Individuals to PHI</b> <b>§164.524</b> <ul style="list-style-type: none"> <li>CEs must allow, with certain limitations, an individual to inspect and obtain a copy of his or her PHI contained in a designated record set.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose the information about the chemical test to the individual tested pursuant to state law without violating HIPAA because it is required by law and such access is permitted under HIPAA.</li> </ul>	
<b>Chemical Tests: Flight Crew Members</b> <b>§577.206</b> <ul style="list-style-type: none"> <li>Any person who operates or acts as a flight crew member of any aircraft in this state is deemed to have consented to chemical tests of breath, blood, saliva or urine to</li> </ul>	<b>As Required by Law</b> <b>§164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>Though the authorization of the law enforcement officer to request the results of the tests or the blood specimen itself is implied in the law, it is nevertheless a requirement of the</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>determine the alcohol or drug content in his or her blood.</p> <ul style="list-style-type: none"> <li>Tests may be administered at the direction of a law enforcement officer.</li> <li>NOTE: The statute does not expressly permit a CE to give the results of chemical tests or the blood specimen to the law enforcement officer. However, it seems to be implied in the statute as well as in <i>State v. Copeland</i>, 680 S.W.2d 327, 330 (Mo.App., S.D. 1984), a case involving a similar statute related to operating a motor vehicle while under the influence of alcohol or drugs.</li> <li>Also, §302.520, RSMo indicates the procedure to be followed when the results of the chemical tests are available to the officer while the arrested person is still in custody.</li> </ul>				<p>law.</p> <ul style="list-style-type: none"> <li>Thus, a CE may disclose, without violating HIPAA, the results of the chemical tests or the blood specimen to the law enforcement officer requesting the test.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
This presupposes the fact that the officer has access to the test results.					
<b>Chemical Tests: Admission in Evidence</b> <b>§§577.037 and 577.214</b> <ul style="list-style-type: none"> <li>Results of chemical tests showing the alcohol content in an individual's blood are admissible in a trial for certain delineated crimes, regardless of the physician-patient privilege in §491.060, RSMo.</li> </ul>	<b>As Required by Law</b> <b>§164.512(a); 164.512(a)(2)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> <li>CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f)</li> </ul> <b>Judicial and Administrative Proceedings</b> <b>§164.512(e)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose the results of blood alcohol tests to the court for admission into evidence without violating HIPAA because it is required by law and would be pursuant to a court order.</li> <li>Though it could be argued that these provisions of state law only waive the statutory privilege and not the common law privilege, the intent of the statute is to allow admission of the evidence. In any event, an order by the court to admit the evidence would eliminate this concern for CEs.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	subpoena, discovery request or other lawful process.				
<b>Miscellaneous Offenses</b>					
<b>Reporting of Gunshot Wounds</b> <b>§578.350</b> <ul style="list-style-type: none"> <li>Anyone licensed under Chapters 334 and 335, RSMo must report to a local law enforcement official the name and address, if known, of any person they treat for a gunshot wound, the nature of the wound, and the circumstances under which the treatment was rendered.</li> </ul>	<b>Preemption Exception §160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public health surveillance, investigation or intervention.</li> </ul> <b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may report gunshot wounds pursuant to state law without violating HIPAA because such reports are exempted from preemption and their disclosure is required by law and is a permissible public health activity.</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<b>Public Health Activities</b> <b>§164.512(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>				
<b>ADDITIONAL EXECUTIVE DEPARTMENTS</b>					
<b>Department of Mental Health</b>					
<b>DMH: Audits of Records</b> <b>§630.080</b> <ul style="list-style-type: none"> <li>The State Auditor shall have access to all records maintained and established by DMH.</li> <li>Limits the State Auditor from further disclosing confidential records.</li> </ul>	<b>As Required by Law</b> <b>§164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to the State Auditor pursuant to §630.080, RSMo without violating HIPAA because such disclosure is required by law.</li> <li>Further disclosure of PHI by the State Auditor pursuant to §630.080, RSMo without violating HIPAA because such disclosure is required by law.</li> <li>Further disclosure of PHI by the State Auditor is not</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
				governed by HIPAA because the auditor is not a CE. It is limited by the provisions of state law.	
<b>Patient Rights: Mental Health Records §630.110</b> <ul style="list-style-type: none"> <li>Requires a patient to have access to his or her own mental and medical records maintained by certain residential facilities or day programs and mental health facilities or programs.</li> <li>EXEPTION: Access may be limited if the head of the residential facility or day program determines that access would be inconsistent with the person's therapeutic care, treatment, habilitation or rehabilitation and the safety of other clients and the public.</li> </ul>	<b>Access of Individuals to PHI: Psychotherapy Notes §164.524</b> <ul style="list-style-type: none"> <li>A patient does not have a right of access to inspect and copy psychotherapy notes.</li> </ul> <b>Psychotherapy Notes §164.501</b> <ul style="list-style-type: none"> <li>Psychotherapy notes are defined as notes that are recorded in any medium by a health care provider who is a mental health professional documenting or analyzing the contents of conversations during a private, group or family counseling session AND that are separated from the rest of the individual's medical record.</li> </ul>	Yes	State	<ul style="list-style-type: none"> <li>Under state law, patients have greater rights of access to their mental health records, including psychotherapy notes, because access can only be limited by utilizing the therapeutic privilege, whereas under HIPAA, access to psychotherapy notes is completely prohibited. Because it provides greater access by patients to their own records, state law is more stringent than HIPAA and must be followed.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>• CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>				
<b>DMH: Records of Certain Facilities Operated, Funded or Licensed by the Department of Mental Health §630.140</b>  <u>Confidentiality</u> <ul style="list-style-type: none"> <li>• The general rule is that records compiled, obtained, prepared or maintained by certain residential facilities, day programs and mental health facilities or programs are confidential.</li> </ul>	<b>Uses and Disclosures: General Rules §164.502</b> <ul style="list-style-type: none"> <li>• CEs may not use or disclose PHI except as permitted under HIPAA.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>• Both state law and HIPAA generally protect medical information at residential facilities, day programs and mental health facilities or programs.</li> </ul>	
<u>Required Disclosures</u>	<b>As Required by Law</b>	No	State	<ul style="list-style-type: none"> <li>• CEs may generally</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>The facility or program <i>shall</i> disclose information and records to the following upon their request.</li> </ul>	<p><b>§164.512(a); 164.512(a)(2)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> <li>CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f)</li> </ul>			<p>disclose PHI as required under this provision of Missouri law without violating HIPAA because such disclosures are required by law.</p> <ul style="list-style-type: none"> <li>However, some of the required disclosures are preempted by HIPAA as described below.</li> </ul>	
<ol style="list-style-type: none"> <li>The parent of a minor patient, resident or client.</li> <li>The guardian or person having legal custody of the patient, resident or client.</li> </ol>	<p><b>Personal Representatives: Unemancipated Minors</b>  <b>§164.502(g)(3)(i)</b>  CEs may disclose PHI to an individual's parent, guardian or person acting <i>in loco parentis</i> who has authority to act on behalf of an unemancipated minor in making decisions related to health care.</p>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose information and records to the parent of a minor patient, resident or client without violating HIPAA.</li> </ul>	
<ol style="list-style-type: none"> <li>The attorney of a patient, resident or client who is a ward</li> </ol>	<p><b>§164.508 Authorizations</b></p> <ul style="list-style-type: none"> <li>Except as otherwise permitted under HIPAA, a</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Though CEs may disclose PHI to an attorney or personal</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>of juvenile court, an alleged incompetent, an incompetent ward or person detained under Chapter 632, RSMo (psychiatric services including civil commitment and detention).</p> <p>4. An attorney or personal physician as authorized by the patient, resident or client.</p>	<p>CE may not use or disclose PHI without an authorization.</p> <ul style="list-style-type: none"> <li>HIPAA has a list of core elements and requirements concerning the content of authorizations.</li> </ul>			<p>physician as required by state law, such disclosure is only required as authorized by the patient. The authorization must meet the more stringent HIPAA authorization requirements.</p>	
<p>5. Law enforcement officers and agencies, if necessary to carry out their duties, information about patients, residents or clients committed pursuant to Chapter 552, RSMo (criminal proceedings involving mental illness).</p>	<p><b>Law Enforcement Purposes §164.512(f)(1)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI for law enforcement purposes as required by law, such as reporting statutes and regulations.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI in order for law enforcement to carry out their duties, particularly with criminal proceedings involving mental illness, without violating HIPAA.</li> </ul>	
<p>6. Certain advocacy entities for persons</p>	<p><b>Victims of Abuse, Neglect or Domestic Violence</b></p>	Yes	HIPAA	<ul style="list-style-type: none"> <li>To the extent disclosures to</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>with developmental disabilities if the individual authorizes such access or, in certain circumstances involving abuse or neglect of the individual, if the individual is unable to authorize because of mental or physical condition.</p> <p>7. Certain advocacy entities for persons with mental illness. If the individual is unable to authorize such access, it will be granted in certain circumstances involving abuse or neglect of the individual.</p> <p>8. To mental health coordinators as necessary for them to carry out their duties under Chapter 632, RSMo. (psychiatric</p>	<p><b>§164.512(c)</b></p> <ul style="list-style-type: none"> <li>CE may disclose PHI to an agency authorized to receive information about an individual believed to be a victim of abuse, neglect or domestic violence to the extent such disclosure is required by law and complies with the requirements of that law.</li> <li>If the CE discloses PHI pursuant to this section of HIPAA, it must inform the individual of the disclosure except for certain delineated situations where the safety of the individual is at risk.</li> </ul> <p><b>TPO</b> <b>§164.506</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul>	Yes	HIPAA	<p>advocacy entities require authorization from the patient, such authorization must comply with HIPAA authorization requirements.</p> <ul style="list-style-type: none"> <li>In addition, CEs may only disclose PHI to advocacy agencies if they also comply with HIPAA requirements for disclosures about victims of abuse, neglect or domestic violence.</li> <li>Because the disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>services, including civil commitment and detention).</p> <p><u>Permitted Disclosures</u></p> <ul style="list-style-type: none"> <li>The facility or program <i>may</i> disclose information and records in the following circumstances.</li> </ul> <p>1. As authorized by the patient.</p>	<p><b>Notice of Privacy Practices §164.520(c)</b></p> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul> <p><b>§164.508 Authorizations</b></p> <ul style="list-style-type: none"> <li>Except as otherwise</li> </ul>			<p>compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</p> <ul style="list-style-type: none"> <li>Thus, CEs that are direct treatment providers may disclose PHI to mental health coordinators for purposes of committing an individual for involuntary treatment only if they comply with the more stringent requirements for the HIPAA NPP acknowledgment.</li> </ul> <p>• CEs may disclose PHI as authorized by</p>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>2. To persons or agencies responsible for providing health care services to patients, residents or clients.</p> <p>3. As necessary for a recipient to make a claim for aid or insurance.</p>	<p>permitted under HIPAA, a CE may not use or disclose PHI without an authorization.</p> <ul style="list-style-type: none"> <li>HIPAA has a list of core elements and requirements concerning the content of authorizations.</li> </ul> <p><b>TPO</b> <b>§164.506</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <p><b>Notice of Privacy Practices</b> <b>§164.520(c)</b></p> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul>	Yes	HIPAA	<p>the patient pursuant to §630.140.3(1), RSMo only if the content of the authorization complies with HIPAA requirements or the disclosure falls under a HIPAA exception.</p> <ul style="list-style-type: none"> <li>Because the disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</li> <li>Thus, CEs that are direct treatment providers may disclose PHI to those responsible for</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
4. To qualified personnel conducting scientific research, management audits, financial audits, program evaluations or similar studies (but cannot identify individual patients in any report of such research, audits and studies).	<b>Research §164.512(i)</b> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for research purposes if they meet certain requirements.</li> </ul>	Yes	HIPAA	<p>providing health care services, as necessary for payment purposes and as necessary for operational functions such as audits, evaluations and similar studies only if they comply with the more stringent requirements for the HIPAA NPP acknowledgment.</p> <ul style="list-style-type: none"> <li>CEs may only disclose PHI for research purposes if they comply with HIPAA research requirements, which in this case are more stringent than Missouri law.</li> </ul>	
5. To the courts as necessary for the	<b>Judicial and Administrative Proceedings</b>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Though this provision of</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
administration of Chapter 211, RSMo (juvenile courts), Chapter 475, RSMo (guardianship under the probate code), Chapter 552, RSMo (criminal proceedings involving mental illness), Chapter 632, RSMo (psychiatric services, including civil commitment and detention).	<b>§164.512(e)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery request or other lawful process.</li> </ul>			<p>Missouri law does not have any requirements for disclosure to courts for the delineated purposes, HIPAA has more stringent requirements that must be met if the request for records comes in any form other than a court order.</p> <ul style="list-style-type: none"> <li>Thus, CEs must follow HIPAA before disclosing records to the courts as permitted under this Missouri statute.</li> </ul>	
6. To law enforcement officers or public health officers as necessary for them to carry out their duties.	<b>Law Enforcement Purposes §164.512(f)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI for certain law enforcement purposes if they meet applicable requirements.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Because HIPAA has more stringent requirements for disclosure of PHI to law enforcement officers than this particular provision of Missouri law, the HIPAA requirements must</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
7. Pursuant to a court or administrative order.	<p><b>Judicial and Administrative Proceedings</b>  <b>§164.512(e)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery request or other lawful process.</li> </ul> <p><b>Law Enforcement Purposes</b>  <b>§164.512(f)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI in compliance with a court order, court-ordered warrant, subpoena or summons issued by a judicial officer, grand jury subpoena or, if meet</li> </ul>	No	State	<p>be followed in order to disclose PHI to law enforcement officers pursuant to this Missouri statute.</p> <ul style="list-style-type: none"> <li>CEs may disclose PHI pursuant to a court or administrative order as permitted under state law without violating HIPAA because such disclosure is permitted under HIPAA for judicial, administrative and law enforcement purposes.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
8. To the attorney representing petitioners under Chapter 632, RSMo (psychiatric services including civil commitment and detention) as necessary for them to carry out their duties.	<p>certain requirements, an administrative request.</p> <p><b>TPO §164.506</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <p><b>Notice of Privacy Practices §164.520(c)</b></p> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Because the disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</li> <li>Thus, CEs that are direct treatment providers may disclose PHI to attorneys under this provision of state law for treatment purposes (determining whether involuntary commitment for treatment is necessary) only if they comply with the</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
9. To DSS as necessary to report or investigate abuse or neglect. (Note: The Division of Aging is no longer part of DSS but has been moved to DHSS).	<b>Victims of Abuse, Neglect or Domestic Violence §164.512(c)</b> <ul style="list-style-type: none"> <li>Except for reports of child abuse, CEs may report abuse, neglect or domestic violence to the extent such disclosure is authorized by law if <ol style="list-style-type: none"> <li>The CE reasonably believes that disclosure is necessary to prevent serious harm to the individual or other potential victims OR</li> <li>The individual is unable to agree to the disclosure due to incapacity and the public official authorized to receive the PHI represents that the PHI is not intended to be used against the</li> </ol> </li> </ul>	Yes	HIPAA	<p>more stringent requirements for the HIPAA NPP acknowledgment.</p> <ul style="list-style-type: none"> <li>Though state law does not condition disclosure of PHI for purposes of reports or investigations of abuse or neglect on anything other than what is necessary to report or investigate the abuse or neglect, HIPAA has additional conditions and requirements in order for the CE to disclose such PHI and is thus more stringent.</li> <li>CEs may disclose PHI under this provision of Missouri law only if the CE has met the HIPAA requirements in §164.512(c), which</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Conflict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
10. To a county board established under 205.968 to 205.972, RSMo (county sheltered workshops and developmental disability services).	<p>individual and immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.</p> <ul style="list-style-type: none"> <li>If the CE discloses PHI pursuant to this section of HIPAA, it must inform the individual of the disclosure except for certain delineated situations where the safety of the individual is at risk.</li> </ul> <p><b>Covered Entity §160.103</b></p> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul>	Yes	HIPAA	<p>include notification of the individual that a report is being made.</p> <ul style="list-style-type: none"> <li>The purpose of sheltered workshops and developmental disability services under Chapter 205 clearly falls within the definition of health care provider. Thus, to the extent such workshops</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p><b>TPO</b> <b>§164.506</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <p><b>Notice of Privacy Practices</b> <b>§164.520(c)</b></p> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul>			<p>engage in covered transactions, they are CEs.</p> <ul style="list-style-type: none"> <li>Because the disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</li> <li>Thus, CEs that are direct treatment providers may disclose PHI to another CE (the county board established under the county sheltered workshops and developmental disability services statutes) under this provision of state law only if they</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
				comply with the more stringent requirements for the HIPAA NPP acknowledgment.	
<b>Notification of Illness or Death of a Patient, Resident or Client §630.145</b> <ul style="list-style-type: none"> <li>• A residential facility or day program funded or licensed by DMH may disclose PHI, including the status of an individual as a patient, resident or client of such a facility or program, or that the individual is seriously physically ill or that the patient has died and the cause of death.</li> <li>• Depending on the circumstances, such disclosure may be to the next of kin, attorney, guardian or conservator of the individual or a person responsible for payment.</li> </ul>	<b>Notification of Family, Friends and Personal Representatives §164.510(b)(1)(ii)</b> <ul style="list-style-type: none"> <li>• CEs may disclose PHI to notify certain family members, friends or personal representatives who are responsible for the individual's care. Such information may include the individual's location, general condition or death.</li> <li>• The applicable requirements for disclosure depend on whether or not the patient is present at the time of the disclosure.</li> </ul>	Yes and No	HIPAA and State	<ul style="list-style-type: none"> <li>• HIPAA generally has more requirements for disclosure in this situation and thus is more stringent than state law.</li> <li>• However, to the extent HIPAA would allow disclosure of more than the patient's status as a patient, resident or client, the fact of their serious physical illness or their death and cause of death, state law is more stringent.</li> <li>• Because Missouri law and HIPAA are not easily integrated in this context, CEs should ensure</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
				compliance with both state law and HIPAA in these circumstances.	
<b>Notification of Unauthorized Absence of Patients, Residents or Clients</b> <b>§630.150</b> <ul style="list-style-type: none"> <li>Under certain circumstances, residential facilities or day programs <i>may</i> disclose the unauthorized absence of a patient, resident or client to relatives, law enforcement agencies and others as necessary to protect the patient, resident or other parties.</li> </ul>	<b>Notification of Family, Friends and Personal Representatives</b> <b>§164.510(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose to certain family members, friends or personal representatives PHI that is relevant to the person's involvement with the individual's care or payment for that care. Such information may include the individual's location, general condition or death.</li> <li>The applicable requirements for disclosure depend on</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>CEs may notify family members, law enforcement officials and others pursuant to state law only if additional requirements are met. Such requirements depend on the purpose of the disclosure.</li> <li>Because Missouri law and HIPAA are not easily integrated in this context, CEs should ensure compliance with both state law and HIPAA in these</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>whether or not the patient is present at the time of the disclosure.</p> <p><b>Serious Threat to Health or Safety</b>  <b>§164.512(j)(1)</b></p> <ul style="list-style-type: none"> <li>• A CE may, consistent with applicable law and ethical standards, disclose PHI if the CE has a good faith belief that such disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public AND the disclosure is to a person reasonably able to prevent or lessen such threat OR such disclosure is necessary for law enforcement authorities to identify or apprehend an individual because of the individual's involvement in a violent crime or where the individual has escaped from a correctional institution or</li> </ul>			<p>circumstances.</p> <ul style="list-style-type: none"> <li>• CEs may disclose the absence to family members pursuant to state law without violating HIPAA if it is relevant to their involvement in the individual's care or payment for such care.</li> <li>• CEs may disclose the absence to law enforcement authorities without violating HIPAA if it is for the purpose of apprehending and returning an individual who escaped from lawful custody as defined in §164.501 of HIPAA.</li> <li>• CEs may disclose the absence to family members, law enforcement officials and others without violating</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>Under certain circumstances, mental health facilities <i>shall</i> disclose the unauthorized absence of a patient, resident or client committed to their custody pursuant to Chapter 552, RSMo (criminal proceedings involving mental illness) to the prosecutor and sheriff in the county in which the individual is detained and the trial occurred, all known surviving victims and any others as necessary for the protection of the patient, resident or other parties.</li> </ul>	<p>other form of lawful custody as it is defined under HIPAA.</p> <p><b>Serious Threat to Health or Safety</b>  <b>§164.512(j)(1)(ii)</b></p> <ul style="list-style-type: none"> <li>A CE may, consistent with applicable law and ethical standards, disclose PHI if the CE has a good faith belief that such disclosure is necessary for law enforcement authorities to identify or apprehend an individual where the individual has escaped from a correctional institution or other form of lawful custody as it is defined under §164.501 of HIPAA.</li> </ul> <p><b>As Required by Law</b></p>	No	State	<p>HIPAA if it is for the purpose of averting a serious threat to health or safety and meets the requirements in §164.512(j) of HIPAA.</p> <ul style="list-style-type: none"> <li>CEs may disclose the absence to law enforcement authorities such as the sheriff and prosecutor as required under state law without violating HIPAA because the individual would have escaped from lawful custody as defined in §164.501 of HIPAA and because it is required by law.</li> <li>CEs may disclose the absence to the victims and others pursuant to state law</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<b>§164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>			without violating HIPAA because it is required by law.	
<b>Abuse or Neglect: Reporting and Investigation §§630.165, 630.167, and 630.168</b> <b>9 CSR 10-5.200</b> <ul style="list-style-type: none"> <li>Various statutes require mandatory reporting of abuse or neglect to DMH, DHSS and law enforcement authorities. Such statutes also require cooperation in the investigation of such abuse or neglect.</li> </ul>	<b>Victims of Abuse, Neglect or Domestic Violence §164.512(c)</b> <ul style="list-style-type: none"> <li>CE may disclose PHI to an agency authorized to receive information about an individual believed to be a victim of abuse, neglect or domestic violence to the extent such disclosure is required by law and complies with the requirements of that law.</li> <li>If the CE discloses PHI pursuant to this section of HIPAA, it must inform the individual of the disclosure except for certain delineated situations where the safety</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>CEs may report and disclose PHI as part of an investigation of abuse or neglect pursuant to these sections of Missouri law without violating HIPAA because it is required by law.</li> <li>However, to the extent HIPAA requires the CE to provide notice of the disclosure to the abused or neglected individual, it is more stringent than Missouri law and must be complied</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>of the individual is at risk.</p> <p><b>As Required by Law</b>  <b>§164.512(a); 164.512(a)(2)</b></p> <ul style="list-style-type: none"> <li>• CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> <li>• CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f)</li> </ul>			with.	
<p><b><u>Research Activities</u></b>  <b>Mental Health Facilities or Programs</b>  <b>§630.192</b></p> <ul style="list-style-type: none"> <li>• No biomedical or pharmacological research can be conducted in certain mental health facilities and programs, residential facilities, or day programs unless the purpose of such research is to alleviate or prevent disabling conditions or</li> </ul>	<p><b>Research</b>  <b>§164.512(i)</b></p> <ul style="list-style-type: none"> <li>• CEs may disclose PHI for research purposes without patient authorization if such research is approved by an Institutional Review Board (IRB) or privacy board; the disclosure is for the purpose of review in preparation for research; or the research involves the PHI of decedents.</li> <li>• Each exception has its</li> </ul>	Yes and No	State and HIPAA	<ul style="list-style-type: none"> <li>• Both HIPAA and Missouri law have specific requirements with respect to research.</li> <li>• Each has restrictions that are more stringent than the other.</li> <li>• Because they are not easily integrated, it is best to comply with both.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Conflict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>have a direct therapeutic benefit to the participants.</p> <ul style="list-style-type: none"> <li>Participation by involuntary patients requires a court order.</li> </ul> <p><b>Residential Facilities or Day Programs</b>  <b>§630.194</b></p> <ul style="list-style-type: none"> <li>Research is permitted only if submitted to a professional review committee created under §630.193, RSMo and certain other requirements are met.</li> </ul>	<p>own specific requirements and specific documentation is required for research based on IRB or privacy board approval.</p>				
<p><b>Placement of Patients</b>  <b>§§630.610; 630.620; 630.635, 630.810 and 630.855</b></p> <p><b>§§630.610; 630.620; 630.635</b></p> <ul style="list-style-type: none"> <li>Placement of persons with a mental disorder or illness, mental retardation, developmental disability</li> </ul>	<p><b>TPO</b>  <b>§164.506</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <p><b>Notice of Privacy Practices</b>  <b>§164.520(c)</b></p> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>To the extent placement of individuals in a facility or program involves the use or disclosure of PHI, HIPAA is implicated.</li> <li>Placement of the individuals relates to obtaining treatment</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>or alcohol and drug abuse under the auspices of DMH.</p> <p><b>§630.810</b></p> <ul style="list-style-type: none"> <li>Interstate Compact on Mental Health.</li> </ul> <p><b>§630.855</b></p> <ul style="list-style-type: none"> <li>Interstate Compact on the Mentally Disordered Offender.</li> </ul>	<p>patients and attempt to obtain a written acknowledgment of receipt of the NPP.</p>			<p>and is part of continuity of care.</p> <ul style="list-style-type: none"> <li>Because the disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</li> <li>Thus, CEs that are direct treatment providers may disclose PHI for purposes of placing a patient only if they comply with the more stringent requirements for the HIPAA NPP acknowledgment.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>Licensure: Residential Facilities or Day Programs §630.730</b> <ul style="list-style-type: none"> <li>Permits DMH or another government agency designated by DMH to perform a licensing inspection of residential facilities or day programs licensed by DMH.</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to DMH or its agents for purposes of a licensing inspection without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	
<b>Disclosure of Records §630.975</b> <ul style="list-style-type: none"> <li>Any hospital, physician, medical professional, mental health professional or Dept. of Mental Health shall disclose all records, medical or social, of any client who has died to the mental health fatality review panel for investigation.</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul> <b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to the mental health fatality review panel for investigatory purposes without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	requirements of such law.				
<b>Alcohol and Drug Abuse</b>					
<b>Alcohol and Drug Abuse</b> <b>§§631.115; 631.120;</b> <b>631.125; 631.135; 631.140;</b> <b>631.145; 631.150; 631.160;</b> <b>631.165; 631.170</b> <ul style="list-style-type: none"> <li>Provisions concerning the detention, placement or transfer of individuals engaged in alcohol or drug abuse. Disclosure of PHI is necessary to accomplish such placements and transfers.</li> </ul> <b>§631.135</b> <ul style="list-style-type: none"> <li>Allows for notification of the individual's guardian when an individual is admitted to a drug or alcohol abuse facility. Such notification may be provided to a responsible member of the individual's immediate family if the individual consents.</li> </ul>	<b>TPO</b> <b>§164.506</b> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <b>Notice of Privacy Practices</b> <b>§164.520(c)</b> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul> <b>Notification of Family, Friends and Personal Representatives</b> <b>§164.510(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose to certain family members, friends or personal representatives PHI that is relevant to the person's</li> </ul>	Yes and No	State and HIPAA (depends on the situation)	<ul style="list-style-type: none"> <li>Because the disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</li> <li>Thus, CEs that are direct treatment providers may disclose PHI for purposes of placement of patients only if they comply with the more stringent requirements for the HIPAA NPP acknowledgment.</li> <li>CEs may disclose to an individual's</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>involvement with the individual's care or payment for that care. Such information may include the individual's location, general condition or death.</p> <ul style="list-style-type: none"> <li>• The applicable requirements for disclosure depend on whether or not the patient is present at the time of the disclosure.</li> </ul> <p><b>Personal Representatives: Adults and Emancipated Minors</b> <b>§164.5502(g)(2)</b></p> <ul style="list-style-type: none"> <li>• CEs may disclose PHI to a person who has authority to act on behalf of an adult or emancipated minor in making decisions related to health care.</li> </ul>			<p>guardian the fact of the individual's admission to a facility without violating HIPAA because the guardian is a personal representative under HIPAA.</p> <ul style="list-style-type: none"> <li>• Though notification of family members involved in the patient's care or payment for such care is permissible under HIPAA, Missouri law is more stringent in that it requires consent of the patient. Thus, CEs may disclose PHI to a family member pursuant to this Missouri statute only if they obtain the patient's consent.</li> <li>• NOTE: To the extent the federal confidentiality of substance abuse</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>interest of the patient, the facility must provide a copy of the conditions of release to the mental health facility that will be providing treatment upon release of the patient. Notice is also required when the conditions of release are modified.</p> <p><b>§632.489</b></p> <ul style="list-style-type: none"> <li>• An independent psychiatrist or psychologist performing a court-ordered examination of a suspected sexually violent predator may access confidential health</li> </ul>	<p>payment and health care operations.</p> <p><b>Notice of Privacy Practices §164.520(c)</b></p> <ul style="list-style-type: none"> <li>• CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul> <p><b>Covered Entity §160.103</b></p> <ul style="list-style-type: none"> <li>• A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul>	No	State	<p>for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</p> <ul style="list-style-type: none"> <li>• Thus, CEs that are direct treatment providers may disclose PHI for treatment purposes only if they comply with the more stringent requirements of the HIPAA NPP acknowledgment.</li> <li>• Disclosure by the multidisciplinary team to a CE under this section does not implicate HIPAA because the multidisciplinary team itself is not a CE, even though</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
information considered by the multidisciplinary team.				some individual members of the team may be CEs in their own health care practices.	
<b>Mental Health Records: Disclosure to MHCs</b> <b>§§632.300, 632.315, 632.330, 632.340, 632.370, 632.375 and 632.390</b>  <b>§632.300</b> <ul style="list-style-type: none"> <li>Mental health coordinators, which are defined as mental health professionals employed by the state and appointed by DMH, are required to conduct an investigation when they receive information that a person with a mental disorder presents a likelihood of serious harm to himself, herself or others. As a result of such investigation the MHC may file an application with the court</li> </ul>	<b>TPO</b> <b>§164.506</b> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <b>Notice of Privacy Practices</b> <b>§164.520(c)</b> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul> <b>As Required by Law</b> <b>§164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Because the disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</li> <li>Thus, CEs that are direct treatment providers may disclose PHI to the MHC for purposes of detaining a person for treatment only if they comply with the more stringent requirements for the</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>for a 96-hour hold for evaluation and treatment.</p> <p><b>§632.315</b></p> <ul style="list-style-type: none"> <li>• A facility accepting a patient for evaluation and treatment pursuant to a 96-hour hold must file the application for the hold and other documents with the court and the regional MHC.</li> </ul> <p><b>§§632.330, 632.340</b></p> <ul style="list-style-type: none"> <li>• The head of a mental health facility shall notify the MHC of the filing of a petition for additional detention for evaluation and treatment.</li> </ul> <p><b>§632.370</b></p> <ul style="list-style-type: none"> <li>• When an involuntary patient is transferred by DMH from one mental health program to another, notice of such transfer must be provided to the MHC for the region.</li> </ul>	<p>it is required by law and is limited to the requirements of such law.</p>			<p>HIPAA NPP acknowledgment.</p>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p><b>§632.375</b></p> <ul style="list-style-type: none"> <li>Required reports of continuing examination and evaluation of involuntary patients must be sent to the MHC.</li> </ul> <p><b>§632.390</b></p> <ul style="list-style-type: none"> <li>When an involuntary patient is released from a mental health program, the head of the program must notify the MHC.</li> </ul>					
<p><b>Mental Health Records: Disclosure to Family, Friends or Legal Guardians</b> <b>§§632.175, 632.300, 632.370, 632.375 and 632.392</b></p> <p><b>§632.175</b></p> <ul style="list-style-type: none"> <li>The condition of patients of mental health facilities must be reviewed at least once every 180 days. A copy of that review is required to be sent to the patient's guardian.</li> </ul>	<p><b>Personal Representatives: Adults and Emancipated Minors</b> <b>§164.5502(g)(2)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a person who has authority to act on behalf of an adult or emancipated minor in</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to the patient's guardian under §632.175, RSMo without violating HIPAA because such individual is a personal</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p><b>§632.300</b></p> <ul style="list-style-type: none"> <li>As a result of an investigation of a person with a mental disorder at risk of serious harm to himself, herself or others, if the MHC determines that involuntary commitment is not necessary, the MHC should inform the person or the person's family or friends about agencies and courts that may be of assistance.</li> </ul>	<p>making decisions related to health care.</p> <p><b>Notification of Family, Friends and Personal Representatives</b>  <b>§164.510(b)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose to certain family members, friends or personal representatives PHI that is relevant to the person's involvement with the individual's care or payment for that care. Such information may include the individual's location, general condition or death.</li> <li>The applicable requirements for disclosure depend on whether or not the patient is present at the time.</li> </ul>	No	State	<p>representative of the patient under HIPAA in that they have the authority to act on behalf of the patient in making decisions related to health care.</p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to family and friends of an individual in order to explain sources of potential assistance without violating HIPAA because it is required by law and to the extent it is relevant to the family member or friend's involvement in the patient's care or payment for that care.</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>§632.370</b> <ul style="list-style-type: none"> <li>When an involuntary patient is transferred by DMH from one mental health program to another, notice of such transfer must be provided to the patient's legal guardian, parents and spouse or if none known, to the patient's nearest known relative or friend, but such notice requires the consent of the patient or legal guardian or in the case of a minor, the minor's parent. Notice must also be given to the patient's last known attorney of record. If such transfer is to an agency of the United States notice to the legal guardian, spouse, parents and nearest known relative or friend does not appear to require consent of the patient.</li> </ul>	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>When patient is being transferred from one mental health program to another, CEs may disclose PHI to a patient's guardian, parents, spouse or nearest known relative or friend with consent of the patient.</li> <li>When patient is being transferred to an agency of the U.S., disclosure may be made to the above listed people without patient consent pursuant to Missouri law without violating HIPAA because it is required by law.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>§632.375</b> <ul style="list-style-type: none"> <li>Required reports of continuing examination and evaluation of involuntary patients must be sent to the patient's attorney.</li> </ul>	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to the patient's attorney under §632.375, RSMo without violating HIPAA because such disclosure is required by law. A patient's attorney is not likely to be considered a personal representative of the patient under HIPAA in that they ordinarily do not have the authority to act on behalf of the patient in making decisions related to health care.</li> </ul>	
<ul style="list-style-type: none"> <li><b>§632.392</b> When certain involuntary patients are released, a mental health program and any treating physician <i>may</i> disclose confidential medically necessary or safety-related treatment</li> </ul>	<b>Notification of Family, Friends and Personal Representatives §164.510(b)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose to certain family members, friends or personal representatives PHI that is</li> </ul>	Yes and No	State and HIPAA (depends on the situation)	<ul style="list-style-type: none"> <li>Though HIPAA would allow disclosure based on the person's involvement in the patient's care or payment for care if the patient is given</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Conflict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
information to “care providers” (individuals who are primarily responsible for the patient’s health care – not including those providing care through hospitals, nursing homes, group homes or similar facilities). Such disclosure requires an attempt to obtain the consent of the patient.	<p>relevant to the person’s involvement with the individual’s care or payment for that care. Such information may include the individual’s location, general condition or death.</p> <ul style="list-style-type: none"> <li>The applicable requirements for disclosure depend on whether or not the patient is present at the time of the disclosure.</li> </ul>			<p>the opportunity to agree or object, Missouri law requires an attempt to obtain consent but would still allow disclosure without such consent.</p> <ul style="list-style-type: none"> <li>The two laws are consistent if the patient consents to the disclosure. However, if the patient does not consent, the more stringent HIPAA standard would not allow disclosure and must be followed.</li> </ul>	
<p><b>Mental Health Records: Disclosure to Courts</b>  <b>§§632.175, 632.300, 632.305, 632.315, 632.330, 632.335, 632.340, 632.345, 632.355, 632.370, 632.375, 632.385, 632.390, 632.489 and 632.498</b></p> <p><b>§§632.175, 632.375, 632.498</b></p>	<p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul>	Yes and No	State and HIPAA (depends on the situation)	<ul style="list-style-type: none"> <li>CEs may disclose PHI to the courts under §§632.175, 632.375, 632.498, 632.300, 632.305, 632.315, 632.330, 632.340, 632.345, 632.355, 632.370, 632.385 and 632.390, RSMo,</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<ul style="list-style-type: none"> <li>Required reports of continuing examination and evaluation of involuntary patients, including patients determined to be sexually violent predators, must be sent to the court.</li> </ul> <p><b>§632.300</b></p> <ul style="list-style-type: none"> <li>As a result of an investigation of a person with a mental disorder at risk of serious harm to himself, herself or others, the MHC may file an application with the court for a 96-hour hold for evaluation and treatment.</li> </ul> <p><b>§632.305</b></p> <ul style="list-style-type: none"> <li>Any person (including a health care provider) may file an application with the court for the 96-hour hold for evaluation and treatment of a person with a mental disorder believed to be at risk for serious harm to himself,</li> </ul>	<p><b>TPO</b> <b>§164.506</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <p><b>Notice of Privacy Practices</b> <b>§164.520(c)</b></p> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul>			<p>without violating HIPAA because it is required by law.</p> <ul style="list-style-type: none"> <li>To the extent disclosure is not required by law, CEs may disclose PHI to the courts for treatment purposes but, because the disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</li> <li>Thus, CEs that are direct treatment providers may disclose PHI to the courts for treatment purposes only if they comply with the</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>herself or others.</p> <p><b>§632.315</b></p> <ul style="list-style-type: none"> <li>• A facility accepting a patient for evaluation and treatment pursuant to a 96-hour hold must file the application for the hold and other documents to the court and the designated MHC for the region.</li> </ul> <p><b>§§632.330, 632.335, 632.340, 632.355</b></p> <ul style="list-style-type: none"> <li>• A mental health facility or MHC may file a petition with the court for additional inpatient or outpatient detention.</li> </ul> <p><b>§632.370</b></p> <ul style="list-style-type: none"> <li>• When an involuntary patient is transferred by DMH from one mental health program to another or from a mental health program to an agency of the United States for hospitalization,</li> </ul>				<p>more stringent requirements for the HIPAA NPP acknowledgment.</p>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>notice of such transfer must be provided to the court that ordered the detention/commitment.</p> <p><b>§632.385</b></p> <ul style="list-style-type: none"> <li>• If a mental health facility determines that release of a patient is in the best interest of the patient, the facility must notify the court of the conditions of release. Notice is also required when the conditions of release are modified.</li> </ul> <p><b>§632.390</b></p> <ul style="list-style-type: none"> <li>• When an involuntary patient is released from a mental health program, the head of the program must notify the court.</li> </ul> <p><b>§632.345</b></p> <ul style="list-style-type: none"> <li>• A person has a right to request examination by a court-appointed physician or psychologist and to have such</li> </ul>					

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>physician or psychologist testify for purposes of determining whether involuntary commitment is necessary.</p> <p><b>§632.489</b></p> <ul style="list-style-type: none"> <li>The psychiatrist or psychologist performing a court-ordered examination of a suspected sexually violent predator has a right to access all materials provided to and considered by the multidisciplinary team and must provide the results of such examination to the court.</li> </ul>	<p><b>As Required by Law</b> <b>§164.512(a); 164.512(a)(2)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> <li>CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f)</li> </ul> <p><b>Covered Entity</b> <b>§160.103</b></p> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health information in electronic form in connection with a transaction covered by HIPAA.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>Disclosure by the multidisciplinary team to a psychiatrist or psychologist performing a court-ordered examination under this provision of Missouri law does not implicate HIPAA because the multidisciplinary team itself is not a CE, even though some individual members of the team may be CEs in their own health care practices.</li> <li>The psychiatrist or psychologist performing the court-ordered examination may</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<b>Judicial and Administrative Proceedings</b> <b>§164.512(e)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery request or other lawful process.</li> </ul>			disclose the results of that examination without violating HIPAA because such disclosure is required by law and is pursuant to a court-order.	
<b>Mental Health Records: Disclosure to Law Enforcement Officers</b> <b>§§632.300, 632.305, 632.337, 632.370, 632.455, 632.483 and 632.484,</b>  <b>§632.300</b> <ul style="list-style-type: none"> <li>If the investigation of a person by the MHC reveals that the person with a mental disorder is at imminent risk of serious harm to himself, herself or others, the</li> </ul>	<b>As Required by Law</b> <b>§164.512(a); 164.512(a)(2)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> <li>CEs must meet additional requirements for disclosures for 164.512 (c), (e), and (f).</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to law enforcement officials such as police officers and prosecutors pursuant to §§632.300, 632.370, 632.483 and 632.484, RSMo without violating HIPAA because it is required by law.</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>MHC must request a law enforcement officer to take custody of and transport the person to a mental health facility pending the filing of an application for a 96-hour hold for evaluation and treatment.</p> <p><b>§632.370</b></p> <ul style="list-style-type: none"> <li>When an involuntary patient is transferred by DMH from one mental health program to another, notice of such transfer must be provided to the prosecuting attorney if such patient was committed pursuant to Chapter 552, RSMo (criminal proceedings involving mental illness).</li> </ul> <p><b>§632.483</b></p> <ul style="list-style-type: none"> <li>When it appears that a person meets the criteria of a sexually violent predator, the agency with jurisdiction (which in</li> </ul>	<p><b>Law Enforcement Purposes §164.512(f)(1)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a law enforcement official for law enforcement purposes as required by law.</li> </ul>				

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>some circumstances may be DMH) must notify the Attorney General and the multidisciplinary team as defined in this section. The multidisciplinary team (which may include health care providers), must make its assessment available to the Attorney General and the Prosecutor's Review Committee, as defined in this section.</p> <p><b>§632.484</b></p> <ul style="list-style-type: none"> <li>Upon an appropriate referral of a person by the court, DMH must determine if the person is a sexually violent predator and provide a report of its investigation and evaluation to the Attorney General.</li> </ul> <p><b>§632.305</b></p> <ul style="list-style-type: none"> <li>If anyone believes a person with a mental disorder is at risk for</li> </ul>	<p><b>TPO</b></p> <p><b>§164.506</b></p> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment,</li> </ul>	<p>Yes and No</p>	<p>State and HIPAA (depends on</p>	<ul style="list-style-type: none"> <li>Because the disclosure of PHI by CEs that are direct treatment providers</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>serious harm to himself, herself or others, that person may file an application for a 96-hour hold for evaluation and treatment. If the MHC determines that the person with the mental disorder who is the subject of the application is at imminent risk of serious harm to himself, herself or others, the MHC <i>may</i> request a law enforcement officer to take the person into custody for a 96-hour hold for evaluation and treatment.</p> <p><b>§632.337</b></p> <ul style="list-style-type: none"> <li>• If a supervisory mental health program determines that a person subject to court-ordered outpatient detention needs inpatient detention, the program <i>may</i> direct such detention at an appropriate facility and</li> </ul>	<p>payment and health care operations.</p> <p><b>Notice of Privacy Practices §164.520(c)</b></p> <ul style="list-style-type: none"> <li>• CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul> <p><b>Serious Threat to Health or Safety §164.512(j)(1)(i)</b></p> <ul style="list-style-type: none"> <li>• A CE may, consistent with applicable law and ethical standards, disclose PHI if the CE has a good faith belief that such disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public AND the disclosure is to a person reasonably able to prevent or lessen such threat.</li> </ul>		<p>the situation)</p>	<p>for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</p> <ul style="list-style-type: none"> <li>• Thus, CEs that are direct treatment providers may disclose PHI as necessary to initiate detention proceedings to provide treatment on an involuntary basis only if they comply with the more stringent requirements for the HIPAA NPP acknowledgment.</li> <li>• Also, CEs that are direct treatment providers may disclose PHI to law enforcement officers as necessary to</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p><i>may</i> authorize the sheriff to detain and transport the person to that facility.</p> <p><b>§632.455</b></p> <ul style="list-style-type: none"> <li>Under certain circumstances, the head of a mental health</li> </ul>	<p><b>Serious Threat to Health or Safety</b></p> <p><b>§164.512(j)(1)(ii)</b></p> <ul style="list-style-type: none"> <li>A CE may, consistent</li> </ul>	No	State	<p>apprehend and detain an individual for treatment purposes only if they comply with the more stringent requirements for the HIPAA NPP acknowledgment.</p> <ul style="list-style-type: none"> <li>CEs also may disclose PHI to a law enforcement officer pursuant to §§632.305 and 632.337, RSMo without violating HIPAA because in both cases, the disclosure is made in order to prevent imminent serious harm as contemplated under §164.51(j) of HIPAA.</li> <li>The head of a mental health program may disclose such PHI as is necessary to</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
program may request the sheriff to apprehend a patient who is absent without authorization and return the patient to the program.	with applicable law and ethical standards, disclose PHI if the CE has a good faith belief that such disclosure is necessary for law enforcement authorities to identify or apprehend an individual because of the individual's involvement in a violent crime or where the individual has escaped from a correctional institution or other form of lawful custody as it is defined under HIPAA.			request the sheriff to apprehend an individual who is absent without authorization from such program without violating HIPAA because the individual has effectively escaped from lawful custody.	
<b>Mental Health Records: Waiver of Privileges</b> <b>§§632.425, 632.510, §632.425</b> <ul style="list-style-type: none"> <li>The statutory physician-patient and psychologist-patient privileges are waived in detention proceedings to the extent that the evidence is material and relevant to the proceedings.</li> </ul>	<b>Judicial and Administrative Proceedings</b> <b>§164.512(e)(1)(i)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain circumstances are met, in response to a subpoena, discovery</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>As part of detention proceedings, state law allows admission of PHI into evidence, regardless of privilege if it is relevant and material. Because HIPAA would allow such disclosure only if certain</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	request or other lawful process.			requirements are met or there is a court or administrative order, HIPAA is more stringent than state law and must be followed.	
<b>Mental Retardation and Developmental Disabilities</b>					
<b>Mental Retardation and Developmental Disabilities Programs §633.010</b> <ul style="list-style-type: none"> <li>As part of its oversight function, the Division of Retardation and Developmental Disabilities, a division of DMH, has access to information from mental retardation or developmental disabilities programs for the purpose of evaluating their cost-and-benefit effectiveness.</li> </ul>	<b>Health Oversight Activities §164.512(d)</b> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may disclose PHI to the Division of Retardation and Developmental Disabilities as it may be relevant to their cost-benefit analysis without violating HIPAA because the Division's access is for health oversight purposes.</li> </ul>	
<b>Mental Retardation or Developmental Disabilities: Transfer and Referral of</b>	<b>TPO §164.506</b> <ul style="list-style-type: none"> <li>CEs may use and disclose</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Because the disclosure of PHI by CEs that are direct</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<b>Individuals</b> <b>§§633.120, 633.130,</b> <b>633.135, 633.145 and</b> <b>633.150</b> <ul style="list-style-type: none"> <li>These provisions permit transfers or referrals of residents of certain facilities to other facilities as described in those sections.</li> </ul>	<p>PHI for treatment, payment and health care operations.</p> <p><b>Notice of Privacy Practices §164.520(c)</b></p> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul>			<p>treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</p> <ul style="list-style-type: none"> <li>Thus, CEs that are direct treatment providers may disclose PHI for purposes of a transfer or referral to a mental retardation facility only if they comply with the more stringent requirements for the HIPAA NPP acknowledgment.</li> </ul>	
<b>§633.145</b> <ul style="list-style-type: none"> <li>Transfers between two mental retardation facilities under §633.145 requires notice to the resident being transferred</li> </ul>	<p><b>As Required by Law §164.512(a)</b></p> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and</li> </ul>	No	State	<ul style="list-style-type: none"> <li>CEs may provide notice of a transfer to the resident's guardian or next of kin without violating HIPAA because it is</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
or that individual's guardian or next of kin.	without an authorization if it is required by law and is limited to the requirements of such law.			required by law.	
<b>Mentally Retarded Residents: Detention or Release Requiring Court Proceedings</b> <b>§§633.125, 633.130 and 633.160</b> <ul style="list-style-type: none"> <li>These provisions permit the initiation of proceedings by a facility for purposes of involuntary detention, discharge or referral of a patient, and the appointment of a guardian, respectively.</li> </ul>	<b>TPO §164.506</b> <ul style="list-style-type: none"> <li>CEs may use and disclose PHI for treatment, payment and health care operations.</li> </ul> <b>Notice of Privacy Practices §164.520(c)</b> <ul style="list-style-type: none"> <li>CEs that are direct treatment providers must provide the NPP to their patients and attempt to obtain a written acknowledgment of receipt of the NPP.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Involuntary detention, discharge or referral of a patient, and the appointment of a guardian all relate to the treatment of a patient.</li> <li>Because the disclosure of PHI by CEs that are direct treatment providers for TPO under HIPAA requires compliance with the requirements for the HIPAA NPP acknowledgment, HIPAA is more stringent than state law.</li> <li>Thus, CEs that are direct treatment providers may disclose PHI for</li> </ul>	



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
				purposes of involuntary detention, discharge or referral of a patient, and the appointment of a guardian only if they comply with the more stringent requirements for the HIPAA NPP acknowledgment.	
<b>Notification of Unauthorized Absence from a Mental Retardation Facility</b> <b>§633.140</b> <ul style="list-style-type: none"> <li>When a resident of a mental retardation facility is absent without authorization, the facility <i>may</i> request the sheriff to apprehend the resident and return him to the facility.</li> </ul>	<b>Serious Threat to Health or Safety</b> <b>§164.512(j)(1)(ii)</b> <ul style="list-style-type: none"> <li>A CE may, consistent with applicable law and ethical standards, disclose PHI if the CE has a good faith belief that such disclosure is necessary for law enforcement authorities to identify or apprehend an individual because of the individual's involvement in a violent crime or where the individual has escaped from a</li> </ul>	No	State	<ul style="list-style-type: none"> <li>A mental retardation facility may disclose such PHI as is necessary to request the sheriff to apprehend an individual who is absent from such facility without authorization because the individual has effectively escaped from lawful custody.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	correctional institution or other form of lawful custody as it is defined under HIPAA.				
<b>Department of Social Services</b>					
<b>Abuse: Protective Services</b> <b>§§660.250, 660.255 660.260,</b> <b>660.261 and 660.263,</b> <b>660.270, 660.275, 660.285,</b> <b>660.290, 660.300, 660.305,</b> <b>660.310, 660.315</b>  <b>§660.255, 660.260, 660.261</b> <ul style="list-style-type: none"> <li>These statutes require reporting and investigation concerning the need for protective services to “eligible adults” who are likely to suffer serious harm.</li> </ul> <b>§660.250</b> <ul style="list-style-type: none"> <li>Eligible adult is defined as a person 60 years of age or older (or a person between 18 and 59 with a mental disability) who is unable to protect his/her own interests or</li> </ul>	<b>As Required by Law</b> <b>§164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <b>Victims of Abuse, Neglect or Domestic Violence</b> <b>§164.512(c)</b> <ul style="list-style-type: none"> <li>Except for reports of child abuse, CEs may report abuse, neglect or domestic violence to the extent such disclosure is required by law as long as the disclosure conforms to that law.</li> <li>CEs may report such abuse as authorized by</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>CEs may report the need for protective services and provide PHI pursuant to an investigation of such report without violating HIPAA when such reports and investigations are required by law.</li> <li>However, even if reports of elder abuse are required by law, HIPAA adds the additional requirement of notice to the individual being abused. To that extent, HIPAA is more stringent.</li> <li>Also, to the extent reports of elder abuse are permitted</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>adequately perform or obtain services necessary to meet essential human needs.</p> <p><b>§§660.263, 660.320, and 660.321</b></p> <ul style="list-style-type: none"> <li>Confidentiality of reports and investigations.</li> <li>Except that DSS shall provide access to reports by the Missouri Department of Labor (660.320) and law enforcement agencies, guardians, DMH, the eligible adult, and DSS (660.321).</li> </ul> <p><b>§660.270</b></p> <ul style="list-style-type: none"> <li>Procedure when report involves abuse or neglect.</li> <li>Permits DSS to request a warrant or injunction from a court if necessary.</li> </ul> <p><b>§660.275</b></p> <ul style="list-style-type: none"> <li>Permits DSS to petition the court when an</li> </ul>	<p>law only if</p> <ol style="list-style-type: none"> <li>The CE reasonably believes that disclosure is necessary to prevent serious harm to the individual or other potential victims OR</li> <li>The individual is unable to agree to the disclosure due to incapacity and the public official authorized to receive the PHI represents that the PHI is not intended to be used against the individual and immediate enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure.</li> </ol> <ul style="list-style-type: none"> <li>If the CE discloses PHI pursuant to this section of HIPAA, it must inform</li> </ul>			<p>but not required, HIPAA has additional requirements for reporting as well as the additional notice requirement and is therefore more stringent.</p> <ul style="list-style-type: none"> <li>Thus, CEs may only report under state law if HIPAA would also allow such reporting and, if they do report, they must comply with the notice requirement under HIPAA.</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
<p>individual attempts to interfere with protective services being provided to an eligible adult.</p> <p><b>§660.280</b></p> <ul style="list-style-type: none"> <li>Requires DSS to petition the court if an eligible adult is unable to consent and the guardian refuses to provide or allow protective services.</li> </ul> <p><b>§660.285</b></p> <ul style="list-style-type: none"> <li>Permits DSS to initiate proceedings to have a guardian appointed.</li> </ul> <p><b>§660.290</b></p> <ul style="list-style-type: none"> <li>Permits law enforcement officer to initiate placement of an eligible adult without capacity to consent for involuntary treatment in certain circumstances (not mental health treatment unless fits into involuntary commitment statutes in Chapter 632).</li> </ul>	<p>the individual of the disclosure except for certain delineated situations where the safety of the individual is at risk.</p> <p><b>Serious Threat to Health or Safety</b> <b>§164.512(j)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CEs may, consistent with applicable law and ethical standards, disclose PHI if they have a good faith belief that such disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public AND the disclosure is to a person reasonably able to prevent or lessen such threat.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>In addition, disclosures that are permitted but not required would likely be permissible under the HIPAA exception regarding a serious threat to health or safety, but the disclosure must meet the requirements under HIPAA regarding the necessity of preventing or lessening a serious and imminent threat and ability of the person receiving the information to prevent or lessen the threat.</li> </ul>	

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<ul style="list-style-type: none"> <li>Permits DSS or head of medical facility to obtain a warrant, if necessary, to enter the premises and remove the eligible adult.</li> <li>Requires DSS or head of medical facility to obtain a court order for further treatment.</li> <li>The court shall conduct a hearing and appoint a guardian ad litem.</li> <li>Eligible adult with capacity has the right to refuse or discontinue services.</li> </ul>	<p><b>Hybrid Entity §164.504(a)</b></p> <ul style="list-style-type: none"> <li>A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <p><b>Health Care Component §164.504(b)</b></p> <ul style="list-style-type: none"> <li>HIPAA only applies to the health care component of a hybrid entity.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>In addition, to the extent disclosures by DSS are related to the function of DSS as a health oversight agency and not as a covered health care provider, HIPAA does not prohibit such disclosures.</li> </ul>	
<p><b>§660.300</b></p> <ul style="list-style-type: none"> <li>Requires reporting of abuse of in-home services clients by a designated list of individuals under certain circumstances.</li> <li>Permits reporting of such abuse by other individuals.</li> <li>Requires case manager to investigate such reports.</li> <li>Permits DSS or local</li> </ul>	<p><b>Judicial and Administrative Proceedings §164.512(e)(1)(i)</b></p> <ul style="list-style-type: none"> <li>CE may disclose PHI in the course of any judicial or administrative proceeding in response to an order by the court or administrative tribunal or, if certain requirements are met, in response to a subpoena, discovery request or other lawful process.</li> </ul>	Yes	HIPAA	<ul style="list-style-type: none"> <li>Once a petition is filed in court pursuant to the state law provisions, disclosure of PHI is permissible under HIPAA, but only if the HIPAA requirements for judicial and administrative proceedings are met.</li> </ul>	

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<p>prosecuting attorney to file a petition for temporary care but, upon the request of DSS, the attorney general must file such a petition.</p> <ul style="list-style-type: none"> <li>• Reports shall be confidential.</li> <li>• Civil and administrative penalties.</li> <li>• Prohibits retaliation based on reporting.</li> </ul> <p><b>§660.305</b></p> <ul style="list-style-type: none"> <li>• Permits reporting of financial misappropriation of client funds or the falsification of documents regarding the delivery of services.</li> <li>• Requires DSS to investigate and report violations to appropriate law enforcement agency.</li> </ul> <p><b>§660.310</b></p> <ul style="list-style-type: none"> <li>• Review by the Administrative Hearing Commission.</li> </ul>					



Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
	<p>discovery request or other lawful process.</p> <p><b>Law Enforcement Purposes §164.512(f)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI in compliance with a court order, court-ordered warrant, subpoena or summons issued by a judicial officer, grand jury subpoena or, if certain requirements are met, an administrative request.</li> </ul> <p><b>Personal Representatives: Adults and Emancipated Minors §164.5502(g)(2)</b></p> <ul style="list-style-type: none"> <li>A CE may use or disclose PHI to a person who has authority to act on behalf of an adult or emancipated minor in making decisions related to health care.</li> </ul>	<p>Yes</p> <p>No</p>	<p>HIPAA</p> <p>State</p>	<ul style="list-style-type: none"> <li>CEs may not disclose PHI to law enforcement without a court order, warrant, subpoena, summons or administrative request pursuant to HIPAA.</li> <li>CEs may disclose PHI to a person acting on behalf of an adult without violating HIPAA if for decisions related to healthcare.</li> </ul>	
<b>Adult Day Care Programs: Investigation and Oversight §§660.407 and 660.414</b>	<p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies</li> </ul>	No	State	<ul style="list-style-type: none"> <li>To the extent they are CEs, adult day care programs may disclose PHI to the</li> </ul>	



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<ul style="list-style-type: none"> <li>The Division of Aging (part of DHSS) is authorized to conduct compliance investigations in licensed and unlicensed adult day care programs.</li> </ul>	for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.			Division of Aging as part of a compliance investigation without violating HIPAA because it is a permissible health oversight activity.	
<b>Child Sexual Abuse Cases §660.520</b> <ul style="list-style-type: none"> <li>Establishes the “State Technical Assistance Team,” which is required to assist various agencies in the investigation of child abuse, child neglect, child sexual abuse, child exploitation, child pornography, or child fatality.</li> <li>Reports and records relating to criminal investigations handled by the Team must be made available in the same manner as other law enforcement reports as set forth in §§610.100 to 610.200 and to individuals as provided</li> </ul>	<b>As Required by Law §164.512(a)</b> <ul style="list-style-type: none"> <li>CEs may use or disclose PHI without giving the individual the opportunity to agree or object and without an authorization if it is required by law and is limited to the requirements of such law.</li> </ul> <b>Preemption Exception §160.203(c)</b> <ul style="list-style-type: none"> <li>Generally, HIPAA preempts contrary state laws.</li> <li>One exception to that rule is when the state law provides for the reporting of disease or injury, child abuse, birth or death, or for the conduct of public</li> </ul>	No	State	<ul style="list-style-type: none"> <li>Because investigation by the Team is required by law, it is permissible under HIPAA.</li> <li>Investigation of child abuse or neglect as required under state law is permissible without violating HIPAA because such investigation is exempted from preemption and disclosure is required by law and/or is a permissible public health activity.</li> </ul>	

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in §210.150.	<p>health surveillance, investigation or intervention.</p> <p><b>Public Health Activities §164.512(b)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to a public health authority authorized to receive such information for the purpose of preventing or controlling disease, injury or disability.</li> </ul>				
<p><b>Long-Term Care Facilities: Ombudsman for Residents §660.603</b></p> <ul style="list-style-type: none"> <li>The Office of the State Ombudsman for Long-Term Care Facility Residents is part of the Division of Aging, which is now part of DHSS.</li> <li>The ombudsman has the authority to enter any long-term care facility and have reasonable access to residents.</li> <li>The ombudsman may access the records of</li> </ul>	<p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	Yes	State	<ul style="list-style-type: none"> <li>Under Missouri law, long-term care facilities may allow the ombudsman <i>general access</i> to patients on a reasonable basis but may only allow access to a resident's records if the resident consents. The requirement of patient consent for access to patient records is more stringent than</li> </ul>	

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<p>residents for general purposes if the resident consents.</p> <ul style="list-style-type: none"> <li>However, the ombudsman has the authority to review any information he or she deems relevant to the investigation and verification of specific complaints.</li> </ul>		No	State	<p>HIPAA and must be followed, even though HIPAA would otherwise allow such access as part of health oversight activities.</p> <ul style="list-style-type: none"> <li>If the ombudsman is in the facility for the <i>investigation</i> of a specific complaint, the CE may disclose PHI, including the records of residents, to the extent it is necessary for such investigation without obtaining the patient's consent and without violating HIPAA because it is a permissible health oversight activity.</li> </ul>	
<p><b>Long-Term Care Facilities: Ombudsman's Records §660.605</b></p> <ul style="list-style-type: none"> <li>The ombudsman's records are confidential.</li> </ul>	<p><b>Covered Entity §160.103</b></p> <ul style="list-style-type: none"> <li>A covered entity includes health care providers that transmit health</li> </ul>	No	State	<ul style="list-style-type: none"> <li>Because the state law limitations on disclosure by the ombudsman relate to the function of</li> </ul>	

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<ul style="list-style-type: none"> <li>The identity of any resident of a long-term care facility may not be disclosed by the ombudsman unless the resident consents or as required by a court order.</li> </ul>	<p>information in electronic form in connection with a transaction covered by HIPAA.</p> <p><b>Hybrid Entity §164.504(a)</b></p> <ul style="list-style-type: none"> <li>A hybrid entity is a type of covered entity that has covered and non-covered functions. Such entities have the obligation to designate their health care components.</li> </ul> <p><b>Health Care Component §164.504(b)</b></p> <ul style="list-style-type: none"> <li>HIPAA only applies to the health care component of a hybrid entity.</li> </ul>			<p>DHSS as a health oversight agency and not as a covered health care provider, HIPAA does not regulate such disclosure.</p> <ul style="list-style-type: none"> <li>Thus, disclosure by the ombudsman is governed by state law.</li> </ul>	
<p><b>Elderly Advocate Investigation §660.620</b></p> <ul style="list-style-type: none"> <li>An elderly advocate working for the Office of Advocacy and Assistance for the Elderly within the Office of the Lieutenant Governor is required by</li> </ul>	<p><b>Health Oversight Activities §164.512(d)</b></p> <ul style="list-style-type: none"> <li>CEs may disclose PHI to health oversight agencies for oversight activities authorized by law, including audits, investigations, inspections, licensure etc.</li> </ul>	No	State	<ul style="list-style-type: none"> <li>To the extent a CE is responding to a request by an elderly advocate during the course of an investigation within the scope of the advocate's authority, the CE may disclose</li> </ul>	

Missouri Statute	HIPAA Privacy Regulations	Con- flict?	State Law or HIPAA?	Discussion and Conclusion	Implications for Electronic HIE
law to conduct investigation of complaints within their scope of authority.				PHI without violating HIPAA because it is a permissible health oversight activity.	